

National Report

The President

of the Energy Regulatory Office

in Poland

2015

July 2015

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Acronyms and Abbreviations

ACER	Agency for the Cooperation of Energy Regulators
n/a	not available
Directive 2009/72/EC	Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC
Directive 2009/73/EC	Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC
DSO	Distribution System Operator
ENTSO-E	European Network of Transmission System Operators for electricity
ENTSO-G	European Network of Transmission System Operators for gas
ERO	Energy Regulatory Office
President of ERO	President of Energy Regulatory Office
EU	European Union
DNC	Distribution Grid Code
TNC	Transmission Grid Code
LNG	Liquefied Natural Gas
NES	National Electricity System
OCCP	<i>Urząd Ochrony Konkurencji i Konsumentów</i> Office of Competition and Consumer Protection
OGP Gaz-System S.A.	Operator Gazociągów Przesyłowych Gaz-System S.A.
PGNiG S.A.	Polskie Górnictwo Naftowe i Gazownictwo S.A.
PSE S.A.	Polskie Sieci Elektroenergetyczne S.A.
POLPX	<i>Towarowa Giełda Energii S.A.</i> Polish Power Exchange
Regulation 713/2009	Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators
Regulation 714/2009	Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003
Regulation 715/2009	Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005
REMIT regulation	Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency

Regulation 347/2013	Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009
RES	Renewable Energy Sources
SGT EuRoPol Gaz S.A.	System Gazociągów Tranzytowych EuRoPol Gaz S.A.
SSO	Storage System Operator
TSO	Transmission System Operator
TPA	Third Party Access
Act on stocks	Act of 16 February 2007 on stocks of crude oil, petroleum products and natural gas, the principles of proceeding in circumstances of a threat to the fuel security of the State and disruption on the petroleum market
Energy Law Act	(Journal of Laws of 2014, item 1695, as amended) Act of 10 April 1997 on Energy Law (Journal of Laws of 2012, item 1059, as amended)

1. FOREWORD

Year 2014 was another year of changes on the electricity and gas market in Poland. The process taking place on the national energy market was significantly influenced by the amendments introduced into the national law in the recent years, including subsequent novelizations of the Energy Law Act.

In 2014, the certificates of meeting the independence criteria were granted to PSE S.A. (on 4 June 2014) and OGP Gaz-System S.A. with respect to performing by this company TSO duties on the own networks (on 22 September 2014). It was the first certificate of independence granted to Polish gas TSO. In March 2014 ERO received second application of OGP Gaz-System S.A. It concerned certification in the ISO model in reference to the TSO function performed by this company on the Polish section of Yamal pipeline owned by SGT EuRoPol GAZ S.A. This proceeding was not finalised in 2014 due to its complex nature.

The creation of common energy market requires regulators to undertake coordinated actions towards integration of national markets, increasing of cross-border exchange and enhancing of security of supply. The most important actions undertaken by Polish regulator with respect to gas market were, among others: issuing on 24 June 2014 of decision on cross-border allocation of costs borne by OGP Gaz-System S.A. with respect to Poland-Czech Republic gas interconnection project, and on 28 November 2014 of a decision on cross-border allocation of costs borne by OGP Gaz-System S.A. in relation to Poland-Slovakia gas interconnection project.

As regards electricity market, in February 2014 the Memorandum of Understanding was signed in the CEE region. The MoU was signed by regulators, transmission system operators and power exchanges of the CEE region. Under MoU parties committed themselves to commence a joint project aimed at developing, implementing and afterwards launching of daily allocations based on Flow-Based Market Coupling.

The above are only few examples of regulator's activities. All the actions undertaken by the President of ERO in 2014 are presented in this report. The report describes also the overall situation on the electricity and gas market in Poland, as well as main changes in comparison to the previous years. This knowledge is a result of constant monitoring of the situation in the sector, as well as systematic gathering and processing of information on the situation on the national energy markets. The cooperation within ACER is also presented.

The creation of common energy market is a constant and multidimensional process. Therefore, the reports includes also information concerning legislative processes, in which the President of ERO has been participated, and in a result of which regulator's competences will be extended in subsequent years.

The document submitted to the European Commission and ACER is the tenth report prepared by the President of ERO, who thereby fulfils the reporting obligation set forth in the Energy Law Act and the European directives.



2. MAIN DEVELOPMENTS IN THE ELECTRICITY AND GAS MARKETS

Legal and regulatory changes

The basic legal act specifying powers and tasks of the President of ERO is the Energy Law Act. Year 2014, like the previous one, was full of numerous amendments to the provisions of the Energy Law Act as well as other acts. This resulted in significant changes of regulation in the scope of broadly understood energy law, which was not without consequences for the competences of the President of ERO that have been continuously extended in the recent years.

Important novelizations of the Energy Law Act in 2014 include: introduction of new rules for obtaining a licence for production and foreign trade in liquid fuels (determining a new type of licence for activity in the field of trading in liquid fuels, i.e. foreign trading in liquid fuels; introduction of security on property, which is a condition to obtain a licence for production and foreign trade in liquid fuels); restoration of the support system for energy undertakings conducting business activity in the scope of electricity and heat production in co-generation in March 2014; enabling the energy company involved in trade in gaseous fuels, referred to in Article 49b of the Energy Law Act, to perform public sales of high-methane gas (the so-called gas exchange obligation).

In 2014 legislative works were held on the next novelisation of the Energy Law Act to provide the President of ERO with measures allowing to enforce the REMIT provisions. On the basis of REMIT provisions and the drafted provisions of the national law, the President of ERO shall be entrusted with new duties aimed at enforcing the prohibition of insider trading, prohibition of market manipulation and obligation to publish inside information, i.a. by conducting investigation and control proceedings with the participation of obliged entities, referrals of possible serious criminal offences, imposing administrative sanctions and close cooperation with ACER, Financial Supervision Authority and OCCP. The President of ERO shall also be obliged to conduct a register of market participants and collect data on ability to use the installations for generation, storage, transmission of electricity or natural gas, or using electricity or natural gas, as well as data on capacity and utilization of liquefied gas installations, including planned and unscheduled unavailability of these installation, provided by the market participants. In consequence the above-mentioned planned amendment to the Energy Law Act shall result in another significant extension of the competences of the President of ERO, although in 2014 the legislative works allowing to introduce the described regulations have not been finalised.

As regards other regulatory changes, in 2014 the works on an Act on the renewable energy sources were carried out¹⁾. The act introduces, among others, new tasks of the regulatory authority, especially in the scope of authorisation to perform business activity, i.e. licensing and running the so-called register of energy generators in small installations. The Act in general maintains the current system of quota support (certificates of origin), but at the same time introduces (as of 2016) a new system of the so-called auctions for energy sales. Simultaneously, the President of ERO has been entrusted with a number of tasks connected with preparing, conducting and verifying the entities participating in the auction procedures.

Electricity market

Wholesale market

The structure of electricity production in 2014 did not change significantly in comparison with 2013. The vast majority of generation is based on conventional fuels, i.e. hard coal and lignite. The share of wind and other renewable energy sources is still growing.

¹⁾ Act of 20 February 2015 on renewable energy sources (Journal of Laws of 2015, item 478).

The biggest share in the generation subsector in 2014 was held by PGE Polska Grupa Energetyczna S.A. Capital Group, and in the supply to final customers by TAURON Polska Energia S.A. Share of PGE Polska Grupa Energetyczna S.A. in the generation sector in 2014 was around 37,9% (in 2013 – 39,9%, a decrease by 1,4 percent point). The share of TAURON Polska Energia S.A. was 10,8% in 2014, which shows a decrease, in comparison with 2013, by 2,8%.

Sale and purchase of electricity on the Polish market is performed mainly through the power exchange managed by TGE S.A. (Polish Power Exchange, POLPX) in the form of standard transactions and contracts. Status of the power exchange member can be held by trading companies and energy generators, as well as big end users who can act independently after becoming a power exchange member or through the brokerage houses. Currently the status of power exchange member is held by 64 undertakings, i.a. energy generators, trading companies and brokerage houses. In 2014 five entities gained the member status.

In 2014 POLPX managed the following electricity sales markets: Intra-Day Market (IDM), Day-Ahead Market (DAM) and Commodity Forward Instruments Market with Physical Delivery (CFIM). Sales of electricity were also conducted in the auction system. The biggest volume of trade was conducted on the CFIM. The total volume of transactions concluded in 2014 on all the POLPX's electricity markets amounted to 186,7 TWh and was by 5% higher than the volume of 2013, which was 176,6 TWh. Taking into account the delivery date, electricity sales in 2014 was equal to 172,6 TWh.

In the years preceding the introduction of obligation to publicly sale electricity generated by energy generators, electricity sales had been performed mainly within the own capital group, which was the main reason for restriction of the competition development, as well as problems with settlements of the state aid. Since 2010 a dynamic development of the commodity exchange market has been observed in the wholesale electricity market. The change of the electricity trading structure from bilateral transactions to transactions concluded on the transparent and liquid electricity exchange market proves that the electricity market becomes more and more mature.

Retail market

Participants of the retail market comprise, along the end-users (both households and businesses), undertakings managing distribution network, including Distribution System Operators (DSOs), and electricity suppliers (trading companies).

In 2014 there were 5 big DSOs operating on the electricity market, whose grids are directly connected to the transmission grid (DSO_t) and who are obliged to separate distribution activity performed by the system operator from other types of activity not connected with electricity distribution, i.e. generation or trading activities conducted within a vertically integrated company (unbundling). Moreover, in 2014 there were 164 active companies performing the DSO function – acting within vertically integrated companies – that are not subject to the unbundling obligation (DSO_n).

The biggest share in the sale of electricity to end-users was still held by the incumbent suppliers who, after the distribution network operators' unbundling, remained a party to the common service agreements, i.e. agreements combining both the provisions of electricity sale agreements and distribution agreements with customers. They perform a function of default suppliers for household consumers who had not decide to switch to a new supplier. In 2014 there were five default suppliers and over 100 alternative trading companies active in the electricity supply to end-users, including suppliers active in the household market segment. On the electricity market there are also suppliers (164 of them) acting within undertakings vertically integrated with the DSO_n.

The demand side of the retail electricity market comprises end-users. There are approximately 16,9 million of them. 90,2% of end-users (over 15 million) are the customers in G tariff group, with a great majority of household consumers (over 14 million) who purchase electricity for the household consumption. The rest of end-users are customers of A, B and C tariff groups. Groups A and B comprise customers supplied from the high and medium voltage grids, the so-called industrial customers, whereas group C are the customers connected to the low voltage grid, consuming electricity for the purpose of business activity, the so-called commercial customers.

The extent to which customers exercise their rights on the electricity retail market can be measured with their willingness to conclude electricity sale agreements with a freely chosen electricity supplier. In 2014 over 144 000 customers of A, B and C groups actively exercised the right to purchase electricity from a chosen supplier, while in households segment their number was over 284 000. That year was another year of a dynamic increase of the number of customers who switched supplier. At the end of 2014

the number of TPA customers increased by 94,5% in comparison with 2013; in case of A, B and C groups the increase was equal to 61,9% and for customers of G group – 117%. It shall also be noticed, that the number of customers in the segment of customers purchasing electricity for the household needs who switched supplier increased more than twofold in comparison with 2013.

Between the 4th quarter of 2013 and the 4th quarter of 2014 electricity prices shown decreasing tendencies in all tariff groups. The biggest drop in electricity prices was observed for A tariff group customers – by 12,5% and the lowest in the C tariff group – by 1,9%. Prices for household customers decreased by 4,4%. Thereby, the downward trend in retail prices observed last year was maintained, which was caused by decreasing electricity purchase prices on the wholesale market. On the other hand, distribution fees in 2014 increased for customers of all tariff groups. The biggest increase of the distribution fee was noted for A tariff group – by 7,9%, and the lowest for the customers of B tariff group – by 1,7%. In case of household customers, distribution fees increased by 3,2%.

Gas market

Wholesale market

As of the end of December 2014, 141 entities held licence for trade in gaseous fuels, whereas 59 undertakings actively participated in natural gas trading. Natural gas trading companies from outside the PGNiG S.A. Capital Group gained 25,4 TWh of natural gas, including about 18% purchased from PGNiG S.A. and about 21% purchased at the gas exchange.

Sale and purchase of gaseous fuels in the Polish gas exchange market is, like in case of electricity, performed mainly on the commodity exchange managed by POLPX. The power exchange members include mainly gas trading companies and big end-users, who can act independently after concluding a relevant contract with POLPX and gaining the status of power exchange member, or through the brokerage houses. Trading on the exchange is performed through sales contracts (transactions) concluded between the members of the exchange.

In 2014 POLPX managed the following gas markets: Intra-Day Market (IDM), Day-Ahead Market (DAM) and Commodity Forward Instruments Market with Physical Delivery (CFIM). Sale of gas was also conducted within the auction system. In 2014, as a result of execution of contracts concluded on POLPX, 44 619 144 MWh of gas was delivered at the average price of 102,17 PLN/MWh.

Development of the gas exchange market is, among others, a result of Article 49b introduced to the Energy Law Act, which obliges energy undertakings trading in natural gas to sell a part of high-methane gas fed into the transmission network in a given year on the commodity exchanges or on the market organised by an entity operating regulated market in the territory of the Republic of Poland. In 2014 this obligation concerned 40% of gas fed into the transmission network by undertakings involved in natural gas trading.

Retail market

In 2014 a significant change took place on the retail market, consisting in the reorganization of retail sales within the PGNiG S.A. Capital Group. On 1 August 2014 PGNiG Obrót Detaliczny Sp. z o.o. (hereinafter referred to as "PGNiG OD Sp. z o.o.") became operational and took over the entire commercial transactions for retail customers in the scope of natural gas sales, with the exception of large industrial customers consuming more than 25 mcm.

Share of PGNiG S.A. Capital Group in the sale of gas to the end-users decreased and amounted to 89,24%, whereas a year earlier this share was 94,42%. The remaining 10,76% of gas sales to the end-users was performed by other trading companies active in the country (5,24%) and by companies selling gas from abroad directly to big end customers, who brought this gas to Poland on their own.

When analysing the market in the scope of volume of retail natural gas sales to all customer groups by PGNiG S.A. Capital Group in 2014, it shall be pointed out that the highest volume was sold to industrial customers. Their share in the total sales of PGNiG Capital Group was about 60%. The share of sales to households was 28%.

Apart from PGNiG S.A. Capital Group, in 2014 monitoring covered also approximately twenty alternative retail sellers, whose share in the volume of gas sales to end-users on the retail market

amounted to 5,24%. Other parties' share in the sale of was not significant, but increased in comparison to the previous year. In 2014 these alternative trading companies sold together 8,14 TWh of gas to final customers, with the largest volume of gas sold to customers with consumption above 2,5 mcm.

Certification

On 10 October 2013 the Polish operator of the electricity transmission system PSE S.A. applied to the President of ERO for granting a certification of independence of electricity transmission system operator, i.e. certificate of meeting the criteria of independence, referred to in Article 9h¹, paragraph 1 (hereinafter referred to as "certificate of independence"). In the course of proceeding the President of ERO assessed whether the conditions to ascertain that PSE S.A. is independent as regards its legal and organisational form, as well as decision making, from performing other activities not connected with the transmission, distribution or storage of gaseous fuels, or liquefaction of natural gas, or regasification of liquefied natural gas in liquefied natural gas installations, or transmission or distribution of electricity are met. In April 2014 the European Commission gave a positive opinion to the draft decision of the President of ERO granting the certification of independence to the Polish operator. The process of granting PSE S.A. the certificate of fulfilling the conditions and criteria of independence was finalised on 4 June 2014.

In 2014 the President of ERO received two applications for granting the certification of independence, submitted by the gas transmission system operator OGP Gaz-System S.A. The first application, submitted in January 2014 concerned granting certification in the OU model and referred to network owned by this company. The second application of OGP Gaz-System S.A. was received by ERO in March 2014 and concerned certification in the ISO model in reference to the TSO function performed by this company on the Polish section of Yamal pipeline owned by SGT EuRoPol GAZ S.A. In case of certification in the OU model, in July 2014 the European Commission issued a positive opinion on the certification of OGP Gaz-System S.A. and on 22 September 2014 the President of ERO granted OGP Gaz-System S.A. the certification of independence in reference to performing the TSO function by this company on its own networks. The second certification proceeding concerning the operatorship on the Polish section of the Yamal pipeline was not finalised in 2014 and has been continued in the next year.

Consumer protection

In 2014 the regulator continued efforts to increase consumer awareness and strengthen the customer position on the electricity and gas markets. The President of ERO conducted information campaigns raising awareness of consumer rights and continued the cooperation with consumer organizations and associations. In 2014 ERO undertook, among others, actions to eliminate fraudulent activities of certain sales representatives of electricity suppliers. The analysis of complaints and signals from consumers carried out by ERO was a basis for the publication of informational material concerning the fraudulent activities of certain sales representatives of electricity suppliers.

Since 2011 ERO has run the Information Point for Fuel and Energy Customers. The main task of the Information Point is to inform the customers on their rights, but also on their obligations towards energy undertakings. In 2014 customers submitted in total 4 238 cases to the Information Point. Amongst the submitted requests the most concerned problems in the area of electricity subsector (77%), more rarely gas (11%) and heat (2%) subsectors. Various cases, constituting 10% of requests concerned issues lying outside the scope of competence of the Information Point, e.g. licences, certificates of origin, renewable energy sources. The subject structure of cases submitted by customers has not changed significantly within the previous year. Problems and requests of customers concentrated around issues connected with the possibility to switch electricity supplier, terms and conditions of concluded agreements, customer service, settlements with the suppliers of electricity, gas and heat (billing, reading of meters, charges listed on the bill, prices). Customers reported also problems with timely realisation of network connection agreements.

Security of supply

In 2014 gross national electricity consumption amounted to 158 734 GWh and was by around 0,5% higher than consumption in 2013. The level of national consumption did not change significantly in comparison with the previous year, despite the increasing pace of GDP growth in 2014, which according to the Central Statistical Office of Poland amounted to 3,3%. At the same time the gross volume of electricity production reached the level of 156 567 GWh and was by 3,7% lower than the previous year's volume. The difference between these values was balanced with electricity imports, which excess over exports in 2014 amounted to 2 167 GWh. It shall be noted that in 2014 Poland became net importer of electricity.

In 2014 no significant change either of the installed or generating capacities of national power plants was observed in comparison with 2013. However, about 2,8% decline in installed capacity and about 1,3% decline in generating capacity of thermoelectric power plants, and over 10% increase of corresponding capacities of renewable sources shall be noted. In consequence, the volume of installed capacity of power plants declined by almost 1%, whereas generating capacity increased in 2014 by about 0,2% in comparison with 2013. The average annual capacity demand was equal to 21 998 MW and grew by about 0,5% in comparison with 2013, while the maximum demand amounted to 25 535 MW and grew by about 3,1% in comparison with 2013.

Gas supplies to the Polish market came mostly from abroad and amounted to 121 TWh. These supplies were supplemented with gas from domestic sources in the amount of 44,3 TWh, which constituted 27% of total gas supplies. Total gas supplies from abroad comprised in 2014 imports from the east and the intra-Community supply, where its significant part was constituted by import from the east executed under long-term contract concluded between PGNiG S.A. and OOO Gazprom Export. The total amount of gas purchased under this contract amounted to 90,7 TWh, which accounted for approximately 75% of total gas supply to the territory of Poland.

In 2014 the Storage System Operator (SSO) performed its operator's functions with the use of existing and new storage capacities resulting from the ongoing construction of new storage installations (Kosakowo) and extension of the already existing storage installations (UGS Wierzchowice and UGS Strachocina) and UCGS Mogilno, UGS Husów, UGS Swarzów and UGS Brzeźnica. The total active storage capacity of all storage installations was in 2014 equal to 2 524,09 mcm.

In 2014 total natural gas consumption in Poland amounted to 15 436,22 mcm. According to the expectations, in the next years the share of gas in the national energy mix should slightly increase due to its utilisation in electricity generation, development of high-efficient steam-gas technologies and as a result of systematic increase of gas consumption by the final customers.

3. ELECTRICITY MARKET

3.1. Network regulation

3.1.1. Unbundling

TSO

In the territory of the Republic of Poland there is one transmission system operator for electricity – PSE S.A., with its seat in Konstancin-Jeziorna, whose 100% of shares belong to the State Treasury. On behalf of the State Treasury, Minister of Economy exercises the rights attached to these shares, pursuant to Article 12a of the Energy Law Act. PSE S.A. runs business activity in the field of transmission of electricity on the basis of the licence for electricity transmission, granted with the decision of the President of ERO, valid until 31 December 2030.

PSE S.A. provides services of electricity transmission in the territory of the Republic of Poland using its own transmission network and, to a small extent, with the use of electricity installations leased under

civil-law agreement, i.e. facilities use agreement. PSE S.A. does not have any transmission systems outside the territory of the Republic of Poland.

In October 2013 PSE S.A. submitted to the President of ERO an application (hereinafter: "Application") for granting the certification of independence of transmission system operator for electricity, i.e. certification of complying with the independence criteria, referred to in Article 9h¹, paragraph 1. In the course of proceeding the President of ERO has several times summoned PSE S.A. to provide clarifications and additional documents.

After analysing contents of the Application as well as explanations and documents appended to it, the President of ERO established that PSE S.A. complies with the independence criteria and took a stance on granting the certification of independence (in the form of a draft decision), which on 10 February 2014 was submitted to the European Commission together with the request for issuing an opinion on complying with conditions and criteria of independence.

On 9 April 2014 the European Commission, acting under Article 3 (1) of Regulation 714/2009 and Article 10 of Directive 2009/72/WE, issued an opinion on the certification of PSE S.A. (document C(2014) 2471 final, hereinafter: "EC opinion").

After analysing contents of the EC opinion, the President of ERO requested PSE S.A. to submit detailed explanations and any documents confirming independence of TSO and its ability to conduct business with ensuring non-discriminatory access to the transmission grid for all users.

In response to the above-mentioned summons, PSE S.A. provided appropriate documents and explanations, and in this situation the President of ERO, on 4 June 2015, made a decision on granting the energy company PSE S.A. a certification of complying with independence criteria set forth in Article 9d, paragraph 1a of the Energy Law Act.

Granted certification of independence allowed for appointing PSE S.A., by the President of ERO, as the TSO in the territory of the Republic of Poland, until 31 December 2030.

DSOs

The conditions for the functioning of system operators and their tasks are set out in the Energy Law Act. The DSOs operating within vertically integrated company and serving more than 100,000 customers connected to their grid are obliged to become independent with respect to their legal form, organisational structure and decision-making (Article 9d of the Energy Law Act).

According to Article 9d, paragraph 1 and 2 of the Energy Law Act, DSO should be fully independent from other fields of business activity not related to transmission or distribution of electricity. The analysis of these provisions leads to the conclusion that, in particular, the company involved in network activity cannot hold any rights and shares in affiliated companies running business in the field of supply or generation. Holding such shares by the network company indicates its direct financial interest in the results of affiliated supply sector, what, in consequence, results in losing the ability to "act independently" by its management board. Moreover, pursuant to paragraph 1a of the aforesaid provision, the above-mentioned operators are allowed neither to run business related to production or supply of gaseous fuels or electricity, nor conduct it, under an agreement, for the benefit of other energy companies.

Assessment of fulfilling the independence criteria by distribution system operators is carried out in the course of proceedings on designation of these operators.

At the end of 2014 in the territory of the Republic of Poland, business activity in the scope of electricity distribution was performed by 169 DSOs designated by the decisions of the President of ERO, including five entities legally unbundled from former distribution companies and 164 DSOs not obliged to be legally separated (in some cases the starting date of performing operator's function was set for the period after 1 January 2015).

Four out of five legally unbundled DSOs operate within the capital groups, which are vertically integrated energy companies. The ownership supervision over these groups is in principle exercised by the State Treasury, whereas over DSOs – indirectly via State Treasury-owned holding companies or parent companies, from which the operator activities were separated and moved to newly established companies. Only one DSO is owned by a company whose shareholders are not connected with the State Treasury.

Undoubtedly, the fact that operators remain within structures of the vertically integrated companies and within developed structures of the capital groups, is an impediment to control ensuring the

independence of the legally unbundled DSOs, although it is acceptable under Directive 2009/72/WE and the Energy Law Act.

According to the Energy Law Act, in case of non-compliance with the conditions and criteria of independence by TSO or DSOs, operator is subject to financial penalty. The fine may be imposed also on an entity which does not provide the operator designated on entity's network with the conditions for fulfilling independence criteria. In the aforesaid cases the financial penalty cannot be lower than 1% and higher than 15% of the revenue of punished entrepreneur, earned during the preceding tax year. The fines arising from the above-mentioned cases are imposed by the President of ERO. Notwithstanding the aforesaid fine, the President of ERO may impose a financial penalty also on a manager of the energy company, in the amount not exceeding 300% of monthly salary.

There are no regulations in the Polish law, which oblige DSO to change a brand or its visual elements (rebranding).

Compliance Programmes

One of the tasks of the President of ERO is to approve, in a form of a decision, the so-called Compliance Programmes. In the Programmes distribution system operators determine actions, which should be undertaken to ensure non-discriminatory treatment of system users, including detailed obligations of staff members resulting from these Programmes. This tool allows the President of ERO to influence, to some extent, contents and way of implementation and execution of these Programmes.

The amendment of the Energy Law Act introduced significant changes with respect to types of entities required to develop Compliance Programmes. The hitherto obligation with regard to the transmission system operator was waived, as the ownership unbundling of TSO (PSE S.A. is a company not belonging to vertically integrated company, 100% owned by the State Treasury) in practice turned out to be sufficient to ensure non-discriminatory treatment of system users.

Moreover, in order to strengthen the existing role of Compliance Officer, this position was described in the amendment to the Energy Law Act introduced in 2013. According to Article 5 of this Act, Compliance Officer is appointed by the Operator to monitor the implementation of Compliance Programme and should be independent in this activity, as well as be provided with access to information possessed by the DSO and its affiliated entities, which is necessary to carry out the Officer's tasks. Pursuant to Article 5a of the Energy Law Act, it is the Compliance Officer – and not, as it used to be the DSO management board – who is obliged to present to the President of ERO an annual report on the execution of Compliance Programme.

According to "Framework guidelines on contents of Compliance Programmes developed by distribution system operators (DSOs) and transmission system operator (TSO)", published by the President of ERO on the website, an annual report on the execution of Compliance Programme should take into account data from regular monitoring, in particular:

- list of breaches of the Compliance Programme,
- information about complaints and proposals concerning the Compliance Programme,
- actions undertaken as part of the Compliance Programme's execution,
- measures applied to protect sensitive information.

All the Compliance Officers who are legally required to submit the reports on the execution of Compliance Programmes to the President of ERO fulfilled the obligation for 2014 and met the deadline stipulated in the law (end of 1st quarter of 2015).

In 2014, five incidents of Compliance Programme's violation by operator's staff members were recorded in one of the DSOs. In four of these cases reprimands were given, in one case the employee was dismissed on disciplinary grounds. The court of first instance dismissed complaint of the employee who appealed against termination of employment. Currently the case is examined by the court of second instance. The case concerns situation when the DSO's staff member at the same time started working for one of the system users, what indicated a possible conflict of interests, because the employee was in such legal or factual relations with this system user that might lead to the violation of non-discriminatory treatment rule. Within other DSO one incident of conflict of interests was identified with regard to the grid connection process. The actions were taken to determine the grid connection conditions without participation of the employee who applied for grid connection conditions.

Aside from the above-mentioned cases, no other violations of Compliance Programmes within any of the DSOs were stated. There were also no complaints or proposals concerning the issue of non-

discriminatory treatment of system users. However, inquiries regarding interpretation of Compliance Programme's provisions were recorded, to which Officers gave comprehensive answers.

While analysing the reports on Compliance Programmes' execution submitted by the DSOs it can be stated that, taking into account the specific nature of this position and the scope of competences, the position of Compliance Officer should be provided with independence and separated from other positions within a given company. This would allow for greater involvement in fulfilling the Compliance Programmes and would constitute a good practice among operators. In practice, in 2014 in the examined DSOs, the function of Compliance Officer was combined with other position, sometimes managerial one. Undoubtedly, the knowledge and experience of person holding managerial position are useful in active monitoring of Compliance Programme's execution; however, in the opinion of the President of ERO, the practice of combining the position of Compliance Officer with other function performed within the company carries a risk of violation of Officer's independence, as well as of lack of time for appropriate monitoring of fulfilling the Compliance Programme's provisions.

Officers trained all staff of the operators in respect of absolute compliance with the Programmes' provisions. Moreover, Officers apply a practice of organizing periodical trainings in order to refresh the knowledge of employees about fulfilling the Compliance Programmes, what is particularly important when the changes to Compliance Programmes are approved and there is a need to familiarise employees with the new rules.

All operators on regular basis improve standard procedures and templates of agreements and request forms related to distribution service, connection to the grid and supplier switching. These changes should be assessed positively as the standardisation contributes to achieving the goal, which is non-discriminatory treatment of all system users. The fact that all operators published the Programmes on their website should also be favourably evaluated. The Compliance programmes should be available not only to operators' staff but also to every interested electricity market participant. Thanks to it, market participant will be able to check if operators comply with the rules of non-discriminatory treatment of all distribution system users. In addition, regulator recommends making the Programmes available in customer service points so that the system users without access to internet could also reach them. Preparing a printed versions of Compliance Programmes, graphically adjusted to the needs of older people and persons with disabilities would also constitute a good practice.

Moreover, the submitted reports show that DSOs apply similar sensitive data protection policy, implemented through appropriate access to particular IT systems. Depending on the scope of duties of specific employees, the individual rights are created for them to access the aforesaid data. The systems for the protection of sensitive data, implemented by particular DSOs, should be assessed as appropriate because, according to submitted reports, in 2014 there were no incidents of violation of sensitive data protection rules within investigated entities.

One of the most important issues, which should be taken into account in the Compliance Programme, is the rules for proper unbundling. Holding its own logo by DSO, different from the trademark of supply company belonging to the same capital group, should be a part of this process. Therefore, it is recommended that electricity DSOs, similarly to DSO operating on gas market, undertake actions aimed at establishing their own logos. Moreover, the rule of commenting on documents developed in the capital group's headquarter in the light of fulfilling the DSO independence criteria, should be acknowledged as compliant with unbundling rules. Such a practice introduced by one of the operators is particularly important when the capital groups, within which DSOs operate, implement the codes, strategies and other documents with the aim of business integration of all companies belonging to these capital groups.

Pursuant to the obligation resulting from the Energy Law Act, reports were published in the ERO's Branch Bulletin as well as on ERO's website.

3.1.2. Technical functioning

Balancing services

The rules of electricity system balancing in Poland are determined in the Transmission Network Code (TNC) of PSE S.A., in the section "System balancing and congestion management", as well as in the Distribution Network Codes (DNCs). Network codes are approved by the decision of the President of ERO. The rules of balancing in distribution network must be compliant with the rules stipulated in the

TNC. The President of ERO monitors activity of the operators, including balancing rules, within the scope of his powers defined in the law.

In 2014 PSE S.A. four times applied to the President of ERO for changing the TNC, developed under Article 9g of the Energy Law Act. Among the most important changes introduced to balancing rules were:

- introduction, on 1 January 2014, of modified rules for calculation and settlement of operating power reserve on the balancing services market. These changes were introduced by the update sheet No. CB/9/2013 to TNC, section "Balancing system and congestion management",
- introduction, on 1 July 2014, of mechanism of active participation in the Balancing Market for balancing market participants possessing reception equipment and installations, which may be controlled directly by TSO. These changes were introduced by update sheet No. CB/8/2013 to TNC, section "Balancing system and congestion management".

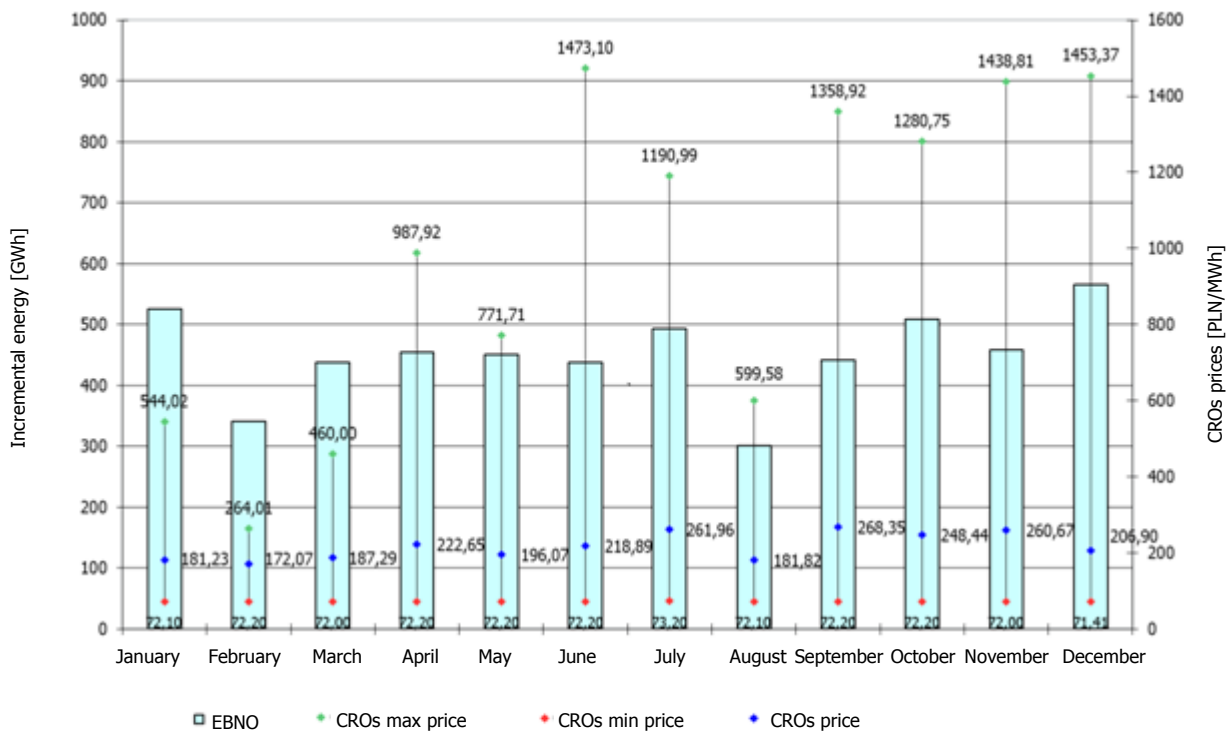
Apart from the above-mentioned changes, the Balancing Market operated under the same rules as in the previous year. In particular, according to these rules market participants submit to the transmission system operator technical and commercial data (Energy Sales Agreement – ESA, and Balancing Offers) on the national market from 9.00 a.m. to 2.30 p.m. on a day preceding delivery date. After closing a gate, TSO verifies notifications and informs Market Operators about accepting, accepting with changes, rejecting or lack of notifications (to 3.30 p.m. on n-1 day). Notifications of ESA for the n commercial day within Intraday Balancing Market (IBM) may be submitted from 3.30 p.m. on n-1 day to 10.00 p.m. on n day. At the moment of gate opening for ESA notifications for n day, i.e. at 3.30 p.m. on n-1 day, as well as at the moment of closing this gate, i.e. at 10.00 p.m. on n day, the notification may be submitted to TSO. Notification of ESA within IBM concerns selected period of a given commercial day, comprising unbroken sequence of hours from specific hour of the commercial day to the last hour of the commercial day. For cross-border exchange, nomination of capacity under annual and monthly auctions is made from noon to 5.00 p.m. on two days prior to delivery date, whereas under daily actions – from 10.30 a.m. to 1.30 p.m. on the day preceding delivery date. In case of cross-border exchange between the Polish and German, Slovak or Czech electricity systems, a congestion management mechanism within intraday market is in place. Reservation of transmission capacities under this mode is equal to their nomination, and sales contracts may be submitted from 3.30 p.m. on a day prior to delivery date to 10.00 p.m. on a day when the contract is executed, provided that nominations are made at least one hour in advance. The cross-border exchange on SwePol Link is carried out under market coupling mechanism. Market participants submit electricity purchase and sales bids on POLPX until 11.30 a.m., and a clearing price is published after its calculation in cooperation with Nord Pool Spot AS, but not later than before gate time closure for nominations of sales contracts on the intraday balancing market. Contracts are executed after notification to the TSO.

The rules for system balancing and managing congestion in NES are determined by system operators (transmission and distribution), and are subject to approval of the President of ERO in the network code. Within the scope of its powers, the President of ERO monitors their functioning by analysis of information and periodical reports published by the transmission system operator. The President of ERO evaluates also the proper functioning of adopted rules, basing on the monitoring of market processes as well as on the basis of proceedings explaining the reasons of any interruptions.

At the end of 2014, 119 entities participated in the balancing market processes, including 17 generators, 7 end-users, 7 network customers, 80 suppliers, 2 power exchanges, 5 DSOs and PSE S.A. as the TSO. Technical and commercial data were reported by 45 market operators and concerned 337 scheduling units.

Figure 1 presents information on the volume of balancing energy purchased on the Balancing Market, as well as settlement prices of this energy.

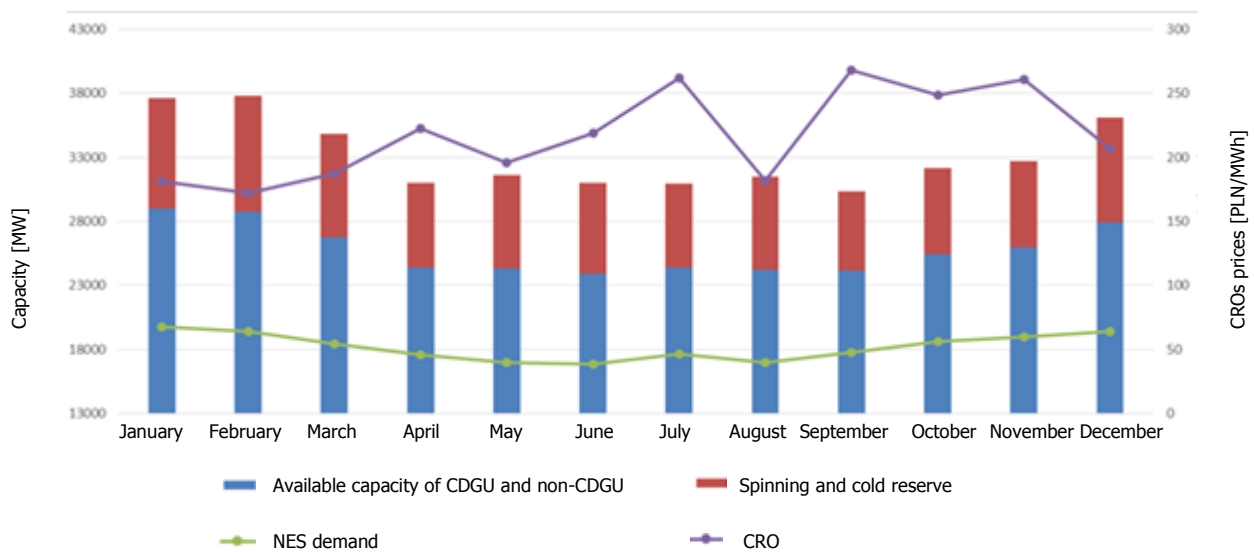
Figure 1. Volume of energy purchased (EBNO) and prices of energy sales on the balancing market (CROs) in 2014



Source: ERO, on the basis of data provided by PSE S.A.

In 2014, total volume of electricity purchased on the Balancing Market (EBNO) increased, comparing to 2013, from 4,73 TWh to 5,4 TWh, i.e. by about 14%. The maximum settlement price of deviation (CRO) in the balancing market oscillated between 1 473,10 PLN/MWh and 264,01 PLN/MWh, whereas weighted average monthly CRO price varied between 172,07 PLN/MWh and 268,35 PLN/MWh. Volatility of these prices results mainly from the level of capacity demand in NES, as well as available capacity and the level of power reserves in this system, what is shown in the figure below.

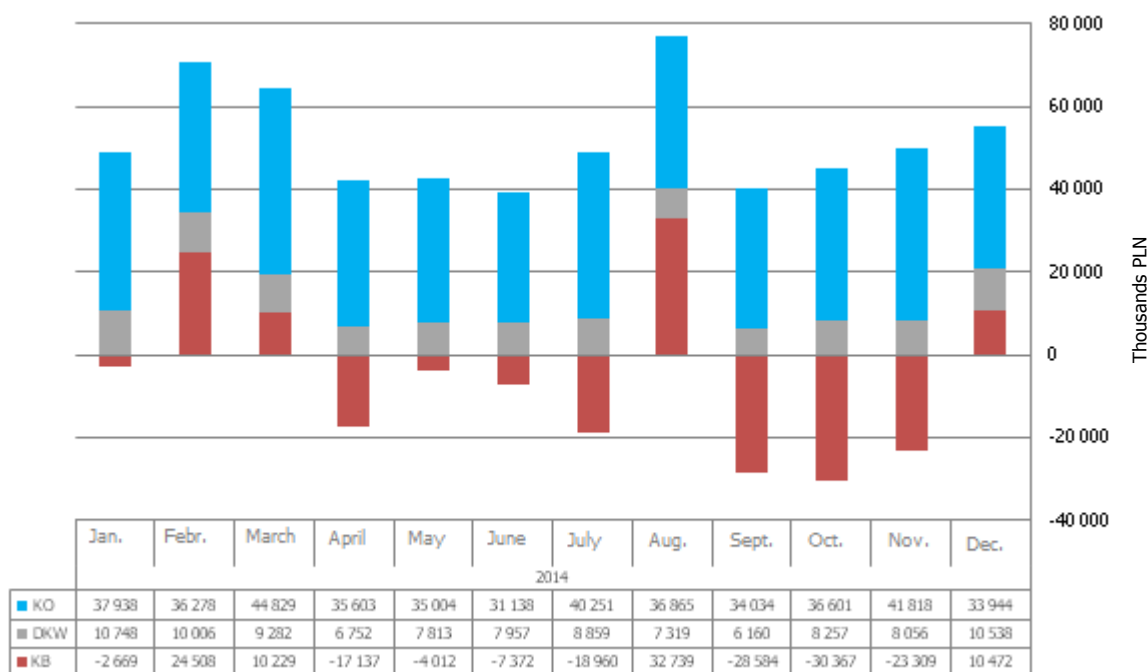
Figure 2. Average monthly settlement price of deviation (CRO) in the balancing market against average monthly capacity demand in NES versus average monthly level of power reserves and available capacity in 2014



Source: ERO, on the basis of data provided by PSE S.A.

In the large part of 2014 “overcontracting” of market participants occurred, whereas congestion costs, determined according to the definition included in TNC, amounted to PLN 444,4 million. The development of congestion costs as well as balancing costs and costs resulting from ESA relocation in subsequent months of 2014 are shown in the figure below.

Figure 3. Costs of balancing customers’ demand (KB), costs of eliminating congestion (KO) and costs resulting from ESA relocation (DKW) in 2014



Source: ERO, on the basis of data provided by PSE S.A.

Costs of balancing customers’ demand (KB) varied between PLN -30 367 thousands to PLN +32 738 thousands, and extreme costs occurred in October and August 2014²⁾. The costs of eliminating congestion (KO), determined according to the definition included in the TNC, as well as costs resulting from ESA reallocation (DKW) varied, respectively: KO from PLN 33 943 thousands (December 2014) to PLN 44 829 thousands (March 2014), whereas DKW from PLN 6 751 thousands (April 2014) to PLN 10 747 thousands (January 2014).

Operating power reserve comprises the generation capacities of active generation scheduling units (JGWa), which constitute excess capacities over concluded electricity sales contracts, and which:

- during execution of electricity supply, constituted a power reserve in JGWa under operation or outage, available due to power plant operating conditions, or
- were used for must-run generation of electricity or for generation of electricity under reallocation of energy sales agreements to JGWa on the Balancing Market.

The number of settlement hours of operating power reserve (OPR) amounted to 3 780 in 2014, of which for 2 690 hours the settlement price of operating power reserve was equal to reference price amounting to 37,13 PLN/MWh. That means that during these hours the amount of JGWa generation capacities settled as operating power reserve was not greater than hourly volume of required operating power reserve, equal to 4 083,63 MWh.

Weighted average hourly settlement price of operating power reserve amounted to 34,06 PLN/MWh, while hourly average amount of JGWa generation capacities settled as operating power reserve was 3 500,91 MWh.

²⁾ "+" means costs borne in the Balancing Market (payments for Balancing Market participants), "-" means revenues earned in the Balancing Market (payments from Balancing Market Participants).

The costs of OPR in 2014 (payments to generators for OPR) were higher than those assumed for quality rate calculation in the tariff of transmission system operator for 2014. In order to ensure stable execution of OPR budget in the period corresponding with the tariff of transmission system operator, as well as to ensure minimisation of impact of external factors on OPR mechanism functioning, an amendment to the rules for functioning of this mechanism was made, which was implemented on 1 January 2015.

In reference to balancing in distribution grids it should be underlined that the role of distribution system operators is limited mainly to actions connected with metering data management. These rules are stipulated in the distribution network codes, and they mainly influence the exercising of TPA principle. Moreover, the distribution system operators are obliged to act on the order of transmission system operator, and these rules were determined by the TSO in the transmission network code.

Since the beginning of 2014 new DNCs of 5 big DSOs were in force: PGE Dystrybucja S.A. (entered into force on 1 October 2013), RWE Stoen Operator Sp. z o.o., ENEA Operator Sp. z o.o., ENERGIA-Operator S.A. and TAURON Dystrybucja S.A. (entered into force on 1 January 2014). The new network codes approved by the President of ERO, introduced i.a. rules for last resort supply to household consumers (connected to grid of 1kV voltage) and uniform principles of supplier switching. It is worth mentioning that according to the new procedures DSOs are obliged to complete supplier switching process within 21 calendar days. It seems that the biggest change in the functioning of the operators, after entering into force of the provisions of new network codes, was the obligation to execute, by the DSOs, the common service agreements concluded by the consumers, also when switching the supplier.

Security and reliability standards, quality of supply and service

One of the tasks of the President of ERO is the monitoring of the electricity system operation, inter alia in the scope of security of electricity supply³⁾. This task was stipulated in general terms and does not cover all actions referred to in Article 4 of Directive 2009/72/EC.

As regards the security and reliability of grid operation, the President of ERO reviews actions of the electricity system operators taken as part of their statutory duties, and assesses them in terms of ensuring proper operation of the grid, taking into account criteria determined by the operators in the network codes. Within conducted activities, the President of ERO also evaluates the capability to cover peak demand for energy and capacity in the electricity system, as well as the level of necessary reserves in the electricity system. These tasks are conducted ex post and concern the evaluation of operational security of electricity system in the context of fulfilling the tasks by electricity system operators. This evaluation is submitted annually to the minister in charge of economy.

Detailed analyses of electricity system operation in terms of available capacities of domestic power plants, reserves, and capacity losses in relation to peak demand are presented in point 3.3.1 of this Report.

Monitoring time taken to connect and repair

The energy companies providing transmission or distribution services (network companies – TSO, DSOs) are responsible for providing consumers with electricity supply of adequate quality, while minimizing the expenditures and costs incurred. The regulator is responsible for controlling if network companies comply with quality standards of customer service and for controlling, at the request of customer, quality parameters of electricity, according to the Energy Law Act.

The annual examination of quality of electricity supplies to customers, conducted with regard to the continuity of electricity supply (indicators) and influence of extremely unfavourable weather conditions,

³⁾ The concept of electricity supply is not consistent with a definition of electricity supply in the aspect of security of electricity supply. The evaluation of security of electricity supply is provided by the President of ERO in the report prepared by the President of ERO and submitted every year to the minister in charge of economy. This evaluation concerns the issues which fall within the competences of the President of ERO, referred to in the Energy Law Act. It should be underlined that this scope does not cover the forecast of balancing electricity supply and demand for the next five years and capability to balance supplies in the period from five years to at least fifteen years, counting from the day of the report preparation (pursuant to Article 4 of Directive 2009/72/EC). Such forecast is presented by the minister in charge of economy in the report, which is prepared and submitted to the European Commission every two years.

allows for assessing of the compliance of quality parameters of electricity provided by the transmission system operator and five biggest distribution system operators whose activity in total covers the whole country. Focusing the regulator's attention on the quality indicators, which are measurable and which may be influenced by the energy companies, allows the President of ERO to carry out more effective annual control of energy companies' compliance with quality parameters of electricity provided to energy consumers throughout the whole country.

A properly defined and calculated level of quality may be a basis for conducting benchmarking of network companies, as well as for determining the level of quality of electricity supply to customers in our country, in relation to levels observed in other countries. Moreover, the publication, by particular grid companies, of reliable information about quality of electricity supply to customers within their operational areas constitutes one of the tools of quality regulation, and may be a starting point for applying more advanced methods in this regard.

Currently, according to applicable regulations, the transmission system operator and distribution system operators publish on their websites the information about continuity of electricity supply with a use of SAIDI, SAIFI indexes for long-term planned and unplanned interruptions, considering extremely unfavourable weather conditions, and MAIFI index for short-term interruptions.

The conducted verification of information on the continuity of supply, published by the energy companies, has standardised the methodology for calculation and manner of gathering quality data in particular grid companies, as well as the manner of their verification. Currently there are works ongoing aimed at introduction of quality regulation.

Monitoring safeguard measures

The rules of undertaking emergency actions by system operators, in the events of threat to security of electricity supply, such as introduction of limitations to off-take and supply of electricity, are described in detail in the network codes developed by electricity system operators. These rules are subject to approval of the President of ERO, prior to their entry into force.

In the event of circumstances which would justify undertaking of emergency actions, the transmission system operator is obliged to develop a report describing conducted actions and their effects. The report is approved by the President of ERO and then submitted to the Minister of Economy. After exhausting by the electricity system operator, distribution system operators or combined electricity system operator, in cooperation with all interested entities, of all available measures to ensure proper operation of electricity system and with taking due care, the Council of Ministers may introduce, at the request of minister in charge of economy, in the form of regulation, for specified period of time, limitations to supply or off-take of electricity in the territory of the Republic of Poland or its part. It should be underlined that in 2014 the aforesaid actions did not take place.

Pursuant to the Energy Law Act, the body responsible for notifying the European Commission about undertaken emergency measures is the Minister of Economy.

Renewable energy sources: connection, access, dispatching and balancing

According to the Energy Law Act, for connecting renewable energy sources (RES) with an installed capacity not exceeding 5 MW to the grid a half of fee is charged, calculated on the basis of actual costs of establishing the connection. Preferential treatment is given to these types of sources, as well as to cogeneration units of installed capacity below 1 MW, as in case of other types of sources the full fee is charged, determined on the basis of all costs of establishing the connection. In addition, the preferential treatment is also given to micro-installations (renewable energy source with total installed electric capacity not exceeding 40 kW or totalled installed heat capacity not exceeding 120 kW), connection of which is free of charge.

If a grid company refuses to conclude a grid connection agreement, it is obliged to inform, without delay, the President of ERO and an interested entity about this fact, providing the reasons for a refusal. If the refusal results from lack of economic conditions for grid connection, the grid company may agree with an entity requesting grid connection on the level of connection fee.

Moreover, a default supplier is obliged to purchase electricity offered by the generators, which was generated in renewable units connected to the distribution or transmission grid located within the

operational area of this supplier. This purchase is carried out under average price of electricity on the competitive market in the previous calendar year, published each year by the President of ERO.

The applicable rules of market functioning provide for priority access to the grid for electricity generated from RES. In particular, according to Article 9c, paragraph 6 of the Energy Law Act, the electricity system operator, within its operational area, is obliged to provide all entities with transmission or distribution services of electricity generated from renewable sources and in high-efficiency cogeneration, while ensuring reliability and security of national electricity system. At the same time it should be underline that in case of centrally dispatched generation units⁴⁾, which operational schedules are set by the electricity transmission system operator under central dispatch of these units' operation, the rules determined in the transmission network code are applied, which do not directly foresee preferential rights for renewable sources. The main selection criteria of generation units for operation in electricity system are reliability and security of system operation. This concerns, in particular, generation units, in which conventional fuels and sources classified as renewable (e.g. biomass) are co-fired.

Referring to the issue of balancing of the renewable energy sources, it should be stated that the regulations in force do not provide for any preferential (different) rights for these sources. RES are subject to the same balancing rules as other energy sources, both in relation to notification to electricity system operators about operating schedules and energy sales agreement, and in reference to imbalance settlements.

In 2014, 2 468 requests for connection of RES to electricity grid were submitted to 5 biggest DSOs and the TSO, with total connection capacity equal to 2 498 MW. In the same year, i.e. 2014, 1 277 RES were connected, with total connection capacity of 683 MW. The biggest share in the number of submitted requests and established connections was held by solar power plants (2 011 submitted applications and 1 033 established connections), whereas the biggest share in total connection capacity went to wind power plants (requests for a total connection capacity of 1 811 MW, established connections with a total connection capacity of 582 MW).

At the end of 2014, the number of RES waiting for connection to electricity grid amounted to 3 711, with a total connection capacity of 18 564 MW waiting for connection, including solar power plants (2 271 sources and 1 123 MW of capacity) and wind power plants (1 082 sources and 17 136 MW of capacity).

3.1.3. Network Tariffs for connection and access

Tariffs for transmission or distribution of electricity are set by licensed energy companies, according to the rules defined in the Energy Law Act and the Regulation of the Minister of Economy on detailed methods of determining and calculating tariffs and financial settlements in electricity trading (hereinafter: "tariff regulation"). The energy companies submit tariffs to the President of ERO for approval on their own initiative or upon the request of the President of ERO.

Regulator approves and controls application of tariffs in terms of their compliance with the rules stipulated in Articles 44, 45 and 46 of the Energy Law Act, as well as analyses and verifies costs considered by energy companies as justified for calculation of prices and fee rates.

In case of proven change in external conditions of running business by energy companies, the regulator may determine ex officio, by a decision, correction coefficients arising solely from the change in external conditions, and energy undertaking is obliged to apply them in relation to prices and fee rates stipulated in the tariff, until the new tariff enters into force.

In case of expiration of tariff application period, until the time when the new tariff enters into force, energy company applies current tariff, if a relevant decision of the President of ERO has not been issued or the appealing procedure against a decision of the President of ERO is pending.

⁴⁾ According to § 2 point 4 of the Regulation of Minister of Economy of 4 May 2007 on detailed conditions for electricity system operation (Journal of Laws No. 93, item 623, as amended), the centrally dispatched generation unit (CDGU) is "a generation unit: a) connected to the electricity transmission grid, or b) condensing unit of generating capacity exceeding 100 MW, connected to coordinated 110 kV grid, or c) connected to the coordinated 110 kV grid, other than this referred to in letter b), which is dispatched by the transmission system operator under separate contracts concluded between generator and distribution system operator, to the grid of which the generation unit is connected".

The decisions on approving tariffs for electricity are issued according to Article 104 of the Act of 14 June 1960 – Administrative Proceeding Code⁵⁾.

These decisions may be appealed to the Regional Court of Warsaw – Court of Competition and Consumer Protection, via the President of ERO, within two weeks from the date of their delivery (Article 30, paragraph 2 and 3 of the Energy Law Act and Article 479 point 1 and Article 479 § 1 of the Civil Proceeding Code).

Every year, the process of approving tariffs for distribution system operators is preceded by the publication of "Principles for calculation of DSOs' tariffs" by the regulator, in the form of guidelines on tariff calculation which are used, inter alia, for determining the justified level of regulated revenue of energy undertakings. These principles are published in advance in order to allow DSOs to develop tariffs calculated on their basis, and to ensure that regulator may approve and publish tariffs in time allowing DSOs to apply them from the beginning of the calendar year.

In 2014 the President of ERO approved electricity tariffs of:

- 1) transmission system operator (TSO) – for entities using transmission services under transmission agreement,
- 2) distribution system operators (DSOs) – for customers connected to distribution grids on all voltage levels, that is for industrial customers, medium and small businesses and households (G tariff groups),
- 3) electricity trading companies, the so-called default suppliers – with respect to consumers from G tariff groups connected to the grid of a given distribution system operator, who are provided with complex service by the trading company,
- 4) other energy undertakings, the so-called industrial energy undertakings – with respect to electricity supply to G tariff group and distribution of electricity to consumers connected to this undertaking's grid.

In case of electricity supply companies, tariffs for households (G tariff groups) were approved by the President of ERO in December 2014 for a period until 31 December 2015.

The recommendations on tariff calculation for 2015 addressed to distribution system operators were included in the document "DSOs Tariffs for 2015 (with respect to DSOs unbundled as of 1 July 2007)", published on the ERO website.

When preparing in 2014 for tariffication process, the President of ERO assumed that the approach applied in the previous years of 4-year regulatory period for DSOs unbundled as of 1 July 2007, i.e. of 2012-2015, will be used. The year 2015 is the last year of this regulatory period.

In the course of tariff approval process for 2015, the level of operating costs was determined for each DSO, on the basis of correction coefficients describing expected improvement of DSO functioning in subsequent years of regulatory period of 2012-2015. These decisions took into account the results of assessment of DSOs performance with respect to operating costs, conducted in 2010-2011. When determining the justified level of network losses, the results of conducted DSOs performance evaluation were also used in this respect.

In the tariffication process for distribution system operators, conducted in 2014, the method for calculation of weighted average cost of capital was applied, which was introduced for the period of 2011-2015. The methodologies for determining other costs influencing the level of regulated revenue were stipulated in the document "DSOs Tariffs for 2015 (with respect to DSOs unbundled as of 1 July 2007)".

The tariff approval process for electricity distribution for 2015 started in November 2014 and concerned five DSOs. The President of ERO on 17 December 2014 approved tariffs of distribution system operators for a period until 31 December 2015.

In case of TSO, tariffication process conducted in 2014 was based on the cost of service regulation. In this case application of benchmarking methods is not possible due to the lack of other companies operating under similar conditions (in Poland there is only one TSO). In August 2014 the President of ERO summoned TSO to submit the request for tariff approval for 2015 with respect to business activity conducted by the company. The application was prepared in line with the multiyear tariff method, approved by the President of ERO in 2012, and with a decision providing for correction coefficients which determine projected improvement of the company's performance in subsequent years of 2012-2015 regulatory period. In the next months of tariffication process, not only selected items of costs were analysed, but also the volumes of energy and capacity, which are a basis for calculation of

⁵⁾ Journal of Laws of 2013, item 267.

transmission fee rates. The proceeding on tariff approval for 2015 was completed on 16 December 2014 with a decision of the President of ERO.

Prevention of cross-subsidies

As of 1 July 2007 a separation of distribution system operators from 14 vertically integrated companies took place, i.e. unbundling of distribution of electricity from its supply.

Besides 14 biggest DSOs, 14 energy undertakings running business in the field of electricity supply started operating on the market. Currently, after merger of companies, there are 5 DSOs and 5 trading companies acting as default suppliers. These are independent business entities.

In case of other energy undertakings, the so-called industrial energy undertakings, electricity tariffs cover full network activity of such undertaking (all customers connected to the undertaking's grid), whereas with respect to electricity supply, tariffs concern only consumers from G tariff group (households), due to the release by the President of ERO of the energy undertakings from the obligation to submit tariffs for approval (in relation to consumers other than consumers in G tariff groups). Calculation of tariffs of these undertakings is based on clearly defined rules, which are assumed to eliminate cross-subsidizing between distribution and supply.

3.1.4. Cross-border issues

Access to the cross-border infrastructure, including the procedures for the allocation of capacity and congestion management

Pursuant to the Energy Law Act (Article 23, paragraph 2, point 11b), the President of ERO is responsible for approving methods of capacity allocation and congestion management, applied on the interconnections between Poland and other EU Member States, as well as for controlling their compliance with Regulation 714/2009.

In 2014, PSE S.A. conducted allocation of transmission capacity on the synchronous interconnections as part of coordinated process, in which, in addition to PSE S.A., seven TSOs from the CEE region participated, i.e. 50HzT, APG, CEPS, ELES, MAVIR, SEPS, and TenneT. Transmission capacity allocation on the synchronous profile is performed under coordinated explicit auctions, carried out by joint auction office Central Allocation Office GmbH (CAO), shareholders of which are all the TSOs from the CEE region, holding equal parts of shares. The CAO operating rules are defined in the multilateral "Agreement for Services" concluded between CAO and the TSOs. Under coordinated auctions, PSE S.A. makes capacity available on the technical profile composed of interconnections with operational areas of 50HzT, CEPS and SEPS. The congestion management procedure and capacity allocation were carried out in accordance with the "Bidding Rules for Coordinated Auction of Transmission Capacity in the CEE Region" document, for 2013 and 2014 respectively (hereinafter: "Auction Rules"), published on the CAO website (the Auction Rules are agreed for every calendar year by all TSOs of the CEE region). Transmission capacity allocation is carried out within annual auctions (reservation period from 1 January to 31 December), monthly auctions (reservation period from first day of the month to the last day of the month) and daily auctions (reservation for each hour of commercial day D). Transmission capacity allocation is performed on the basis of submitted bids, through optimisation, as a result of which the set of accepted offers of market participants, together with volumes of allocated capacities and bid prices for each direction of transmission are calculated.

At the end of 2013 PSE S.A. submitted a request for approving the methods of transmission capacity allocation on the borders between Poland and other EU Member States. Within conducted proceeding, PSE S.A. was summoned to supplement the request with allocation methods for the interconnector with Sweden (SwePol Link) and with method applied for intraday allocation in the Central and Eastern Europe. While analysing the evidence collected in the course of administrative proceeding, the President of ERO questioned the compliance of allocation methods (stipulated in the CAO Auction Rules) with the binding EU law. According to the President of ERO, the only legally effective way to investigate the compliance of capacity allocation methods applied in the region with the provisions of Regulation 714/2009 is to apply Article 7 (4) of Regulation 713/2009, i.e. to request for an opinion of ACER regarding the evaluation of compliance of the decisions issued by regulators of the CEE region, approving allocation methods, with the provisions of Regulation 714/2009 and the guidelines appended to it.

In the assessment of the President of ERO, the transmission capacity allocation in accordance with Regulation 714/2009 should be applied on borders between all Member States of the CEE region. Only in this way the existing congestion in the grid may be reflected. Exemption of the German-Austrian border from the obligation of applying allocation methods poses a threat to security of operation of the neighbouring electricity systems. In the situation when the congestions occur (even if it is not relevant to recognise them as permanent) and have negative impact on the electricity flows in the neighbouring systems, there is also a distortion of effective economic signals sent to market participants and transmission system operators, as well as a distortion of effective competition. At the same time, as a result of commercial transactions between the countries in question, there is an increase of costs related to application of subsequent remedial measures in the form of cross-border re-dispatching, borne partially by the Polish market participants. Therefore, in this situation the problems of grid congestions are not solved by non-discriminatory market solutions. The problems indicated above result from a lack of coordination in preparing and carrying out the transmission capacity allocation in the CEE region.

On the synchronous interconnections the capacity is allocated also within intraday market. This allocation is carried out as part of coordinated process, in which, in addition to PSE S.A., five TSOs of CEE region participate. The process is administered by Czech TSO – ČEPS, a.s., which acts as Allocation Office. Within intraday market PSE S.A. allocates capacities on the technical profile, composed of the interconnectors with 50HzT Transmission GmbH, ČEPS, a.s. and SEPS, a.s. The rules of cooperation of PSE S.A. as the TSO and Allocation Office are stipulated in the multilateral "Agreement on intraday cross-border transmission capacity allocation and nomination", concluded between Allocation Office and the TSOs. Under this agreement the Allocation Office, on behalf of PSE S.A., carries out tasks related to the allocation of transmission capacity to interested parties within intraday market. The principles of congestion management and transmission capacity allocation are stipulated in "Intraday Capacity Allocation and Nomination Procedure – The Trader Guide", published on the website www.ceps.cz.

Over last few months the transmission system operators of the CEE region have identified problems in handling of intraday cross-border transmission allocation process. These problems result from the overloading of Allocation Office's IT systems, due to excessive number of offers for 4-hour intraday sessions, submitted by some (also Polish) market participants. The draft annex to the current agreement on organisation of intraday auctions includes the proposal prepared by the Czech transmission system operator ČEPS (acting as Allocation Office for cross-border intraday trading) and cooperating TSOs of the CEE region. It covers changes to intraday capacity allocation procedure, aimed at avoiding abovementioned IT system overloading caused by excessive number of submitted bids. The documents have not been approved yet, because, as it was indicated above, in relation to transmission capacity allocation on synchronous borders the Polish regulator submitted request for ACER's opinion.

On the interconnection line between Poland and Sweden, linking the operational areas of PSE S.A. and Affärsverket Svenska Kraftnat (TSO in the territory of Sweden), transmission capacity allocation is carried out under implicit auctions within market coupling mechanism. The auctions are performed by the power exchanges, i.e. POLPX and Nordpool Spot AS. Transmission capacities together with electricity are offered in auctions. The transmission system operators of Poland and Sweden make the capacity available, accept and nominate the schedules notified by power exchanges, with ensuring allocated amounts. The rules of transmission capacity allocation on Poland-Sweden interconnection line, as well as of associated financial settlements are determined in the quadrilateral Market Coupling Agreement, signed by power exchanges: POLPX and Nordpool Spot AS, and transmission system operators of Poland and Sweden: PSE S.A. and Affärsverket Svenska Kraftnat.

On the Poland-Ukraine interconnection (linking operational area of PSE S.A. with the generation units of Dobrotwór power plant, selected for working for the Polish system), allocation of transmission capacity is carried out under unilateral monthly explicit auctions, according to the document "Rules for monthly auctions of transmission capacity on PSE S.A. and NEK UKRENERGO cross-border interconnection in 2014".

Monitoring the use of revenues from interconnectors

According to Article 23, paragraph 2, point 11 of the Energy Law Act, the President of ERO is responsible for controlling the compliance of electricity transmission operator or combined electricity system operator and other electricity market participants with the provisions of Regulation 714/2009, as well as for fulfilling other duties of regulatory authority arising under this regulation.

Pursuant to point 6.5 of the Guidelines on the management and allocation of available transfer capacity on interconnections between national systems (hereinafter: "Guidelines"), which are appended

to Regulation 714/2009, by 31 July each year the regulatory authorities shall publish a report setting out the amount of revenue collected for the 12-month period up to 30 June of the same year, and the use made of the revenues in question, together with verification that that use complies with this regulation and those Guidelines, and that the total amount of congestion income is devoted to one or more of the three purposes, referred to in Article 16 (6) of this regulation.

According to the accounting records as of early March 2015, revenues from allocation of cross-border capacity under coordinated auctions on the synchronous profile, recorded in 2014, amounted to PLN 11 206 112,49. In the period from January to December, transmission system operator refunded part of collected revenues to cross-border exchange players. The aforesaid decrease in revenues was connected with the fact that part of transmission rights acquired under annual and monthly auctions was transferred, by cross-border exchange participants, to daily auctions. Return of revenues arising from the aforesaid reductions of transmission rights recorded in whole 2014 amounted to PLN 935 085,70. Therefore, the revenues of transmission system operator, earned from allocation of available transmission capacity on synchronous interconnections (reduced by the aforesaid payback) in the period from 1 January to 31 December 2014 amounted to PLN 10 271 026,79.

Pursuant to the accounting records as of early March 2015, revenues of transmission system operator, gained from the allocation of transmission capacity on the direct current interconnector Poland-Sweden amounted in 2014 to PLN 86 906 268,66.

The amount of revenues from cross-border transmission capacity allocation on the interconnections with the EU Member States, gained in a period 1 January – 31 December 2014, will be fully transferred to the Earmarked Fund. This Fund was set out by the adoption of the resolution of PSE S.A. management board of 25 May 2006 on establishing the Earmarked Fund Rules.

The transmission system operator will spend the revenues resulting from the cross-border transmission capacity allocation on the purposes referred to in Article 16 (6) (b) of Regulation 714/2009, i.e. on maintaining or increasing interconnection capacities through network investments. It concerns, in particular, investments in new interconnections, determined in the Development Plan (agreed with the President of ERO) and then incorporated in the operational investment plans of the transmission system operator. In particular, TSO will use the money collected in the Fund for financing (as one of financial sources) of the certain investments included in the Poland-Lithuania interconnection project. In the period from 1 January to 31 December 2014, a total of PLN 231 274 562,82 from the Earmarked Fund was spent on the above-mentioned purposes. Due to the long-lasting nature and schedule of investment processes, the aforesaid amount of spent funds does not correspond with decreasing of the Earmarked Fund in PSE S.A. capital in a given year. These expenditures would form a basis for the Earmarked Fund decrease after completion of a given investment task and commissioning fixed assets, which arose from the task completion.

Unplanned flows of electricity

According to the Energy Law Act (Article 23, paragraph 2, point 11b), the President of ERO is responsible for approving the methods of capacity allocation and congestion management, applied on the interconnectors between Poland and other UE Member States, and for controlling their compliance with Regulation 714/2009. Unplanned power flows are cross-border flows of power that were not notified to transmission system operator by the cross-border exchange schedules, and thus were not included in the market mechanism of cross-border capacity allocation. Unplanned power flows comprise:

- natural circulation of power in the interconnected electricity systems, resulting from terms and conditions of these systems' operation. Even if there is lack of commercial exchange of power in Europe (balanced imports and exports in each country), there are flows of powers via interconnections, called loop flows,
- unplanned transits of power, resulting from commercial transactions between and within other bidding zones in the region, which were not coordinated within the process of calculation and allocation of capacity. Unplanned power transits via national electricity system (NES) use all current-carrying capacities of NES transmission lines, and due to that these capacities cannot be utilised for import or export of energy from/to NES, i.e. for commercial transactions concluded between market participants.

Unlike physical flows, commercial flow demonstrates the electricity transmission schedule resulting from contracts concluded between cross-border exchange market players. In turn, the amount of physical flows of energy in the import/export direction is calculated as a sum of all flows via interconnectors from/to Poland to/from neighbouring electricity systems.

Figure 4 shows annual average amount of unplanned power flows on the Polish borders and on the certain borders in the CEE region in 2014, as well as their change in comparison to 2013.

Figure 4. Annual average amount of unplanned power flows on the Polish border and certain borders in the CEE region in 2014 [MWh] as well as change of this amount in comparison to 2013 [%]



Source: ERO, on the basis of data provided PSE S.A.

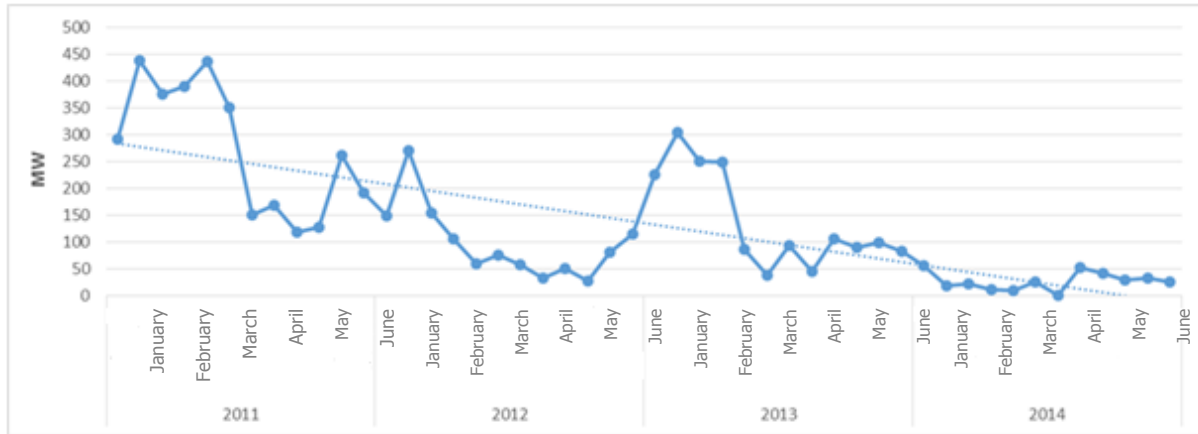
It is worth underlining that average amount of unplanned power flows on the Polish synchronous borders, in particular on the Polish-German border, constitutes a significant part of import capacity resulting from technical capacity of national electricity system in the conditions of secure system operation. In consequence, import capacity available to market participants constitutes a slight part of technical capacity. Moreover, transmission capacity for import direction is made available in short-term time horizons (day-ahead and intraday markets) due to the lack of possibility to predict unplanned flows of electricity in long-term time horizons. It is connected with the fact that unplanned flows of electricity are correlated with wind generation within the area of German transmission grid operated by 50Hertz, as well as with commercial exchange from Germany to Austria, which to a great extent is carried out through grids of other, neighbouring transmission system operators.

Transmission capacity calculation is carried out with a use of mathematic model, optimal for a given time horizon, which takes into account the neighbouring systems. Applied reliability margins take into account a real possibility of affecting the Polish electricity system operation by external conditions. Despite applied safeguard measures, threats to system operation have happened, which required undertaking of large-scale remedial actions, including cross-border redispatching. While calculating available transmission capacity, PSE S.A. takes into account a criterion of reliability of system operation, including "n-1" criterion (shut-down of a single interconnector, a line of national electricity system or line of neighbouring electricity system cannot cause a system failure), as well as takes into account forecasted weather conditions, generation in wind power plants in Germany, non-agreed compensation flows, market players' behaviours, fortuitous events, modelling and calculating mistakes.

Under the congestion management mechanism, PSE S.A. calculates net transfer capacity (NTC) and transmission reliability margin (TRM). Transmission capacity is determined for technical profile, i.e. for all cross-border profiles operated by the operators from Poland, Germany, Czech Republic and Slovakia. Such a solution is applied due to loop flows in the CEE region and their strong correlation with the amount of transmission capacities available on particular borders. The increase in the amount of unplanned power flows over recent years results in lowering availability of transmission capacities for the Polish market participants. It is caused, inter alia, by the difficulties in forecasting of physical cross-border flows arising from commercial transactions in the CEE region, as well as by the lack of remedial measures available to TSO. Hence, the decreasing transmission capacity results from lack of coordination of rules for transmission capacity calculation and allocation in the CEE region, what is, in the assessment of the President of ERO, non-compliant with the provisions of Regulation 714/2009 and the guidelines appended to it. This question was raised in the request for an ACER's opinion on whether

the decisions of the CEE regulators, approving the methods of cross-border transmission capacity allocation, comply with the law in force. The request was submitted in November 2014. By the end of 2014 ACER did not issue an opinion in this regard.

Figure 5. Average amounts of transmission capacities offered under coordinated auctions (daily and intraday) in 2011-2014, in the import direction, on the synchronous interconnections



Source: ERO, on the basis of data provided by PSE S.A.

Monitoring technical cooperation between the EU and third-country TSOs

The national electricity system is connected with two electricity system of countries which are not the EU Members States – Belarus and Ukraine. In case of interconnection with Belarus, the line remains decommissioned due to the poor technical conditions, which do not allow for utilising it. The interconnection with Ukraine enables electricity supplies, which are carried out with the use of transmission capacity allocation mechanism based on explicit auctions. The auctions introduced by the Polish TSO are unilateral in their nature. In case of cross-border exchange between Poland and Ukraine it is only possible to book capacity in monthly periods, for which transmission capacity auction is organised that may only be used by one entity in a given moment, i.e. auction winner.

Monitoring investment plans and assessment of their consistency with Community-wide network development plan

As it results from conducted analysis of the reports on the implementation of development plans in 2014, five biggest DSOs and TSO jointly executed investment outlays at the level similar to the planned value, which amounted to about PLN 6 400 million. The investment expenditures, planned and taken into account in the TSO tariff, amounted to PLN 788 million. The company executed expenditures in the amount of PLN 5 624 million, what constitutes 99% of the plan agreed with the President of ERO.

In 2014, the process of agreeing the update to the TSO's development plan for 2010-2025 with respect to years 2014-2018, which had begun in the preceding year, was continued. The update of the development plan, requested by the TSO, resulted from the need to include new projects arising from issued grid connection conditions and signed grid connection agreements into the development plan, as well as from the need to update the schedules and material scope of the projects. In January 2014 the President of ERO agreed the update of development plan for the period requested by PSE S.A, i.e. for 2014-2018.

The control of consistency of PSE S.A. development plan with the Ten Year Network Development Plan (TYNDP) established by ENTSO-E, is carried out in case of every update of any of the aforesaid documents. Identified inconsistencies are clarified with the TSO on a regular basis (usually inconsistencies result from different dates of these documents' updating). In 2014 the assessment of consistency was conducted during the agreeing of the next update to PSE S.A. development plan as

well as during works on the report on the implementation of investments, developed by ACER in 2014 (opinion of ACER No. 16/2014).

Cooperation with regulatory authorities from other EU Member States

In 2014 the works on the request of the Lithuanian transmission system operator LITGRID AB for cross-border cost allocation as regards the Alytus-PL/LT border project, which had started in the preceding year and in which the President of ERO was involved, have been continued. In November 2014 Lithuanian regulator, under Article 12 (6) of Regulation 347/2013, submitted this request to ACER for Agency's consideration. ACER's works on the request have not been completed in 2014.

In 2014 the works on the selection of projects for the second EU list of projects of common interests – projects necessary for the construction of priority corridors and energy infrastructure areas, stipulated in the Appendix I to Regulation 347/2013 – were launched. These works were carried out within regional groups, composed of representatives of the Commission, Agency, ENTSO-E, Members States, national regulatory authorities and transmission system operators. The President of ERO participated in the works of the following groups: Baltic Energy Market Interconnection Plan in electricity (BEMIP Electricity) and North-South electricity interconnections in Central Eastern and South Eastern Europe (NSI East Electricity). In 2015 the regional groups will finish their works, and afterwards the Commission will publish the second list of projects of common interest.

ERO cooperates with regulatory authorities of the EU Member States within the ACER Board of Regulators, working groups, task forces and workstreams functioning within ACER. Works on markets development are mainly focused on contribution to the development of network codes and framework guidelines; projects of early implementation of the issues, which will be subject of planned legal regulation; market monitoring report and on other issues related to market aspects of the cross-border cooperation.

Within the works of the CEE region, in February 2014 the Memorandum of Understanding (MoU) was signed by regulators, transmission system operators and power exchanges of the region. Under the MoU, the parties committed themselves to set up a joint project aimed at developing, implementing and then launching the daily allocation under Flow-Based Market Coupling. Afterwards, the works on establishing, by the transmission system operators, of a Flow-Based Market Coupling method have been conducted. The works in the region have been carried out within the Implementation Group, composed of representatives of regulators, transmission system operators, power exchanges and ACER. In 2014 the President of ERO attended all meetings of the group. In the course of 2014 the regulators from the CEE region were monitoring work progress in the project of merging CAO and CASC (Capacity Allocating Service Company) allocation offices into one Joint Allocation Office (JAO). The merger is to be finalised in August 2015. Transmission capacity allocation under harmonised auctions rules will be performed via JAO for 2016.

3.1.5. Compliance

Compliance of the regulatory authority with binding decisions of the Agency for the Cooperation of Energy Regulators and European Commission and with the ACER Guidelines

According to Article 37 (1) (d) of Directive 2009/72/EC, regulatory authority is responsible for compliance with and implementation of all legally binding decisions of ACER and of the Commission. During the reporting period in question, these bodies did not issue any legally binding decisions addressed to ERO.

Pursuant to Article 39 of Directive 2009/72/EC, any regulatory authority and the Commission may request the opinion of the Agency on the compliance of a decision made by a regulatory authority with the Guidelines referred to in this directive or in Regulation 714/2009. In November 2014 the President of ERO submitted request for the opinion of ACER on the compliance of decision issued by regulators

of the CEE region concerning capacity allocation with Regulation 714/2009 and guidelines appended to it. The opinion in this regard will be issued in the 3rd quarter of 2015.

Compliance of network companies with relevant EU legislation

The President of ERO controls the fulfilling, by electricity TSO and other electricity market participants, of the obligations stipulated in Regulation 714/2009. In the previous year no irregularities in the compliance of TSO with duties arising from aforesaid regulations were observed.

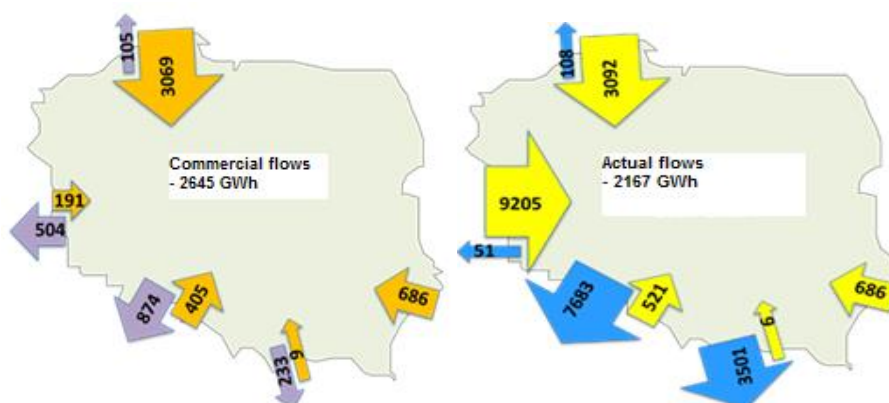
Due to the fact that at the end of 2014 there was one TSO in the territory of the Republic of Poland, operating under full ownership unbundling formula, and having in mind that the compliance of this TSO with the independence criteria was evaluated as part of pending administrative proceeding, the monitoring of TSO's independence has not been carried out.

In relation to the monitoring of network codes implementation, this monitoring will be performed once the network codes come into force.

Monitoring of coordinated cross-border exchange

The cross-border exchange balance as well as actual flows of electricity from respective countries to Poland and from Poland to other countries is presented in figure 6.

Figure 6. Average monthly transmission capacity, made available under coordinated auctions, allocated and utilised in export direction in 2014 on the respective synchronous interconnections [MW]



Source: ERO, on the basis of data provided by PSE S.A.

As it can be observed, the cross-border balance on the Polish borders in 2014 amounted to -2 644,6 GWh (imports). It should be taken into account that the recorded change in cross-border exchange from export in 2013 to import in 2014 is equal to the reduction of demand for national electricity generation. At the same time attention should be paid to the considerable difference between commercial and actual flows of electricity on the synchronous borders (Germany, Czech Republic, Slovakia), which results from unplanned power flows leading to significant reduction of transmission capacity offered to market participants on these borders (detailed information on unplanned power flows is presented in point 3.1.4.).

The volume of cross-border transmission capacity in 2014 was determined separately for synchronous profile, direct-current interconnector with Sweden and 220 kV radial line Zamość-Dobrotwór (Ukraine).

In each case the NTC method was applied, taking into account the balancing conditions, and:

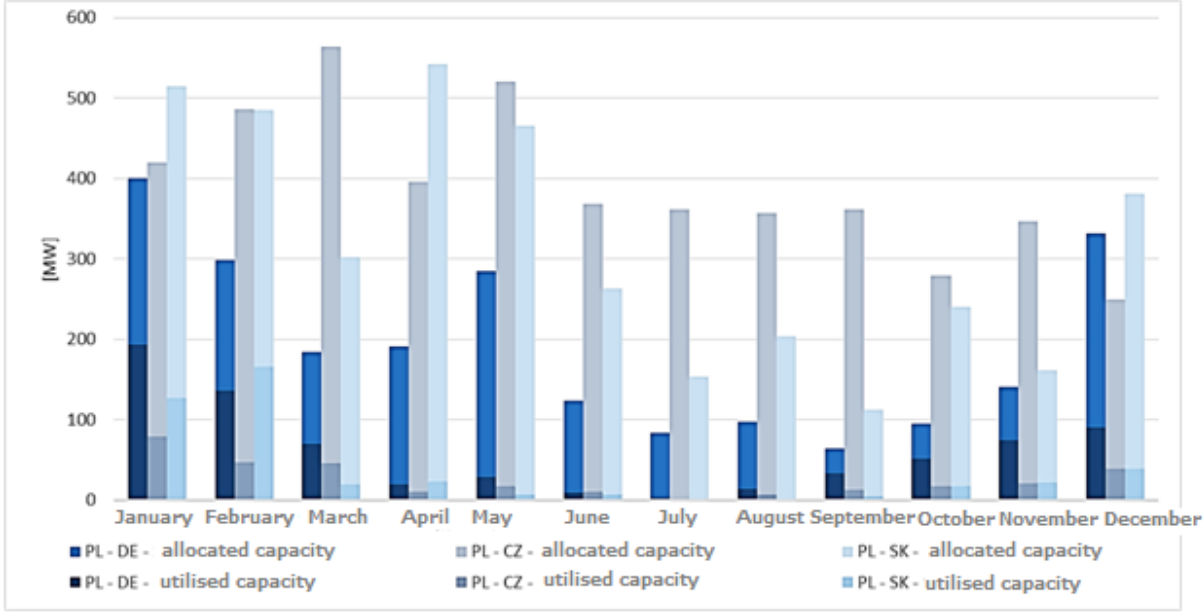
- for synchronous profile, the NTC values were determined for imports and exports, for annual, monthly and daily auctions, as well as within intraday mechanism,
- for direct-current interconnector with Sweden, the NTC values were determined for exports and imports, only for daily auctions,
- for Zamość-Dobrotwór radial line, the NTC values were determined for imports, for monthly auctions.

The calculation of transmission capacity was performed with the use of mathematical model, optimal for a given time horizon, which takes into account the neighbouring systems. Reliability margins applied in the calculation, take into account a real possibility of affecting the Polish electricity system operation by external conditions. In particular, this resulted in significant limitations to import capacities available on synchronous profile. Despite applied safeguard measures, the threats to system operation happened, which required undertaking of large-scale remedial actions, including cross-border redispatching whose total volume in 2014 reached about 361,7 GWh.

The attained NTC values were offered under applicable auction procedures, with the use of dedicated IT platforms. The transmission capacities offered for respective profiles of cross-border exchange and for respective types of auctions were shown in separate figures, i.e. for synchronous profile, for direct-current interconnector with Sweden and for Zamość-Dobrotwór radial line.

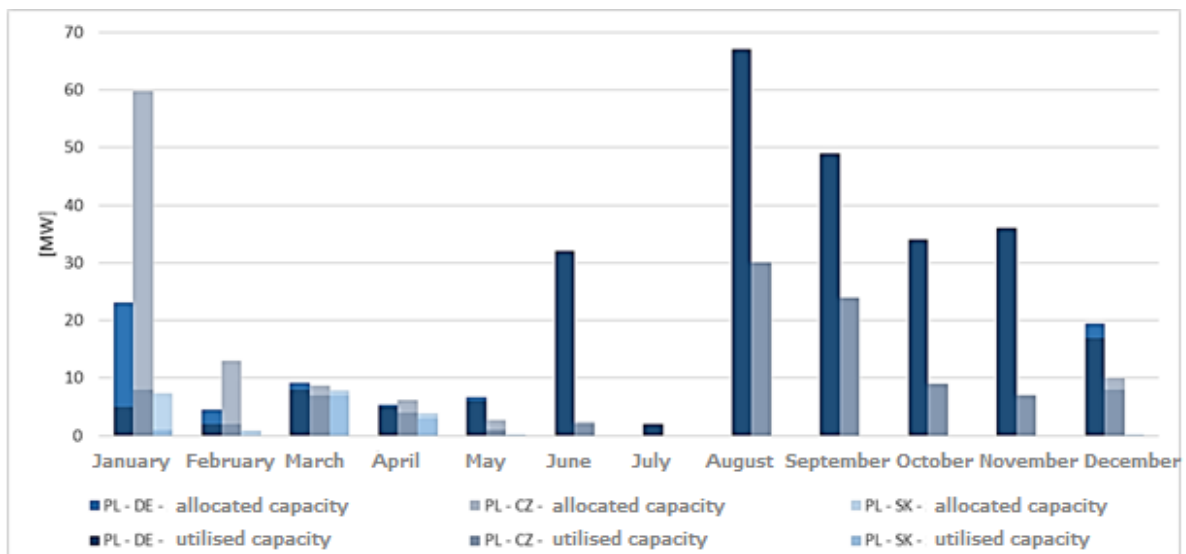
In 2014 allocation of cross-border transmission capacity on the synchronous profile was conducted on the basis of "Rules for coordinated auctions of transmission capacity in Central Eastern Europe", applied by eight electricity transmission system operators from seven countries, i.e. ČEPS, a.s.; TenneT TSO GmbH; 50Hertz Transmission GmbH; PSE S.A.; MAVIR Hungarian Independent Transmission Operator Company Ltd.; Slovenská elektrizačná prenosová sústava, a.s.; Elektro-Slovenija, d.o.o. and Austrian Power Grid AG. Figures 7 and 8 below present amounts of allocated and utilised transmission capacity, allocated under coordinated auctions (annual, monthly, daily and intraday) in respective time horizons in 2014, for the import and export direction on synchronous interconnections, respectively.

Figure 7. Average monthly transmission capacity available under coordinated auctions, allocated and utilised for import direction in 2014, on individual synchronous interconnections [MW]



Source: ERO, on the basis of data provided by PSE S.A.

Figure 8. Average annual transmission capacity on synchronous interconnections for export direction, offered under coordinated auctions in respective time horizons in 2014 [%]

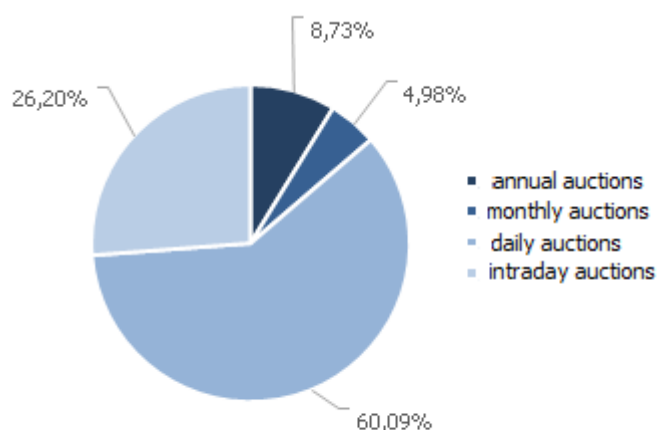


Source: ERO, on the basis of data provided by PSE S.A.

Transmission capacity allocation under explicit auctions, where the whole capacity is offered under technical profile covering borders with Germany, Czech Republic and Slovakia, reflect the differences in prices between domestic and neighbouring markets, expected by market participants. In particular, allocation of total offered capacity to the commercial profiles (separately for Germany, Czech Republic and Slovakia) is carried out according to prices proposed in the offers submitted by these market participants. The data presented above indicate that in case of exports, in most of the months of 2014, market participants expected the highest market surplus on the borders with Czech Republic and Slovakia. At the same time, the utilisation of allocated transmission capacity may prove that the transmission capacities allocated to Germany were used to the greatest extent. The situation was different with regard to transmission capacity allocation for imports. In particular, the biggest amount of offered transmission capacities was allocated to Germany and to Czech Republic. In case of imports, the level of utilisation of allocated transmission capacities was very high, except first two months of 2014.

It should be also pointed out that the amount of transmission capacities available in export direction is significantly higher than in case of imports. Such situation results mainly from unplanned power flows. Also due to unplanned power flows the considerable part of transmission capacities is allocated in shorter time horizons. In particular, transmission capacities in import direction were made available solely under day-ahead auctions (on average 75% of offered transmission capacities) and intraday auctions (on average 23,5% of offered transmission capacities). The average annual transmission capacities in export direction, made available under coordinated auctions in respective time horizons in 2014, are presented in figure 9.

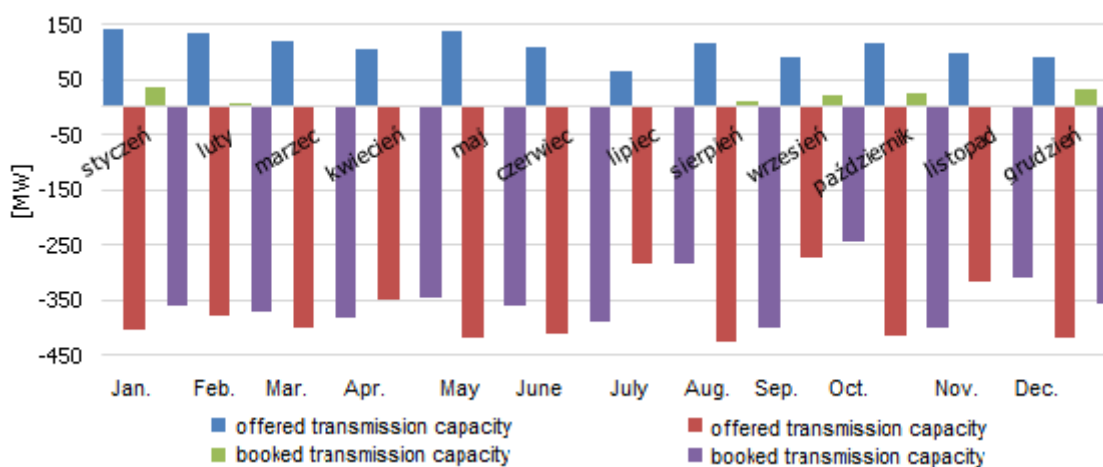
Figure 9. Average annual transmission capacities in export direction allocated under coordinated auctions in respective time horizons in 2014.



Source: ERO, on the basis of data provided by PSE S.A.

Transmission capacity on the direct-current interconnector Poland-Sweden was in 2014 allocated in export and import directions, on the basis of market coupling mechanism carrying out by POLPX and Nord Pool Spot AS. Maximum offered transmission capacities amounted to: 300 MW for exports from Poland and 600 MW for imports to Poland. Figure 10 shows average values of offered transmission capacities in individual months.

Figure 10. Average monthly transmission capacities offered and allocated on the Poland-Sweden interconnection in 2014



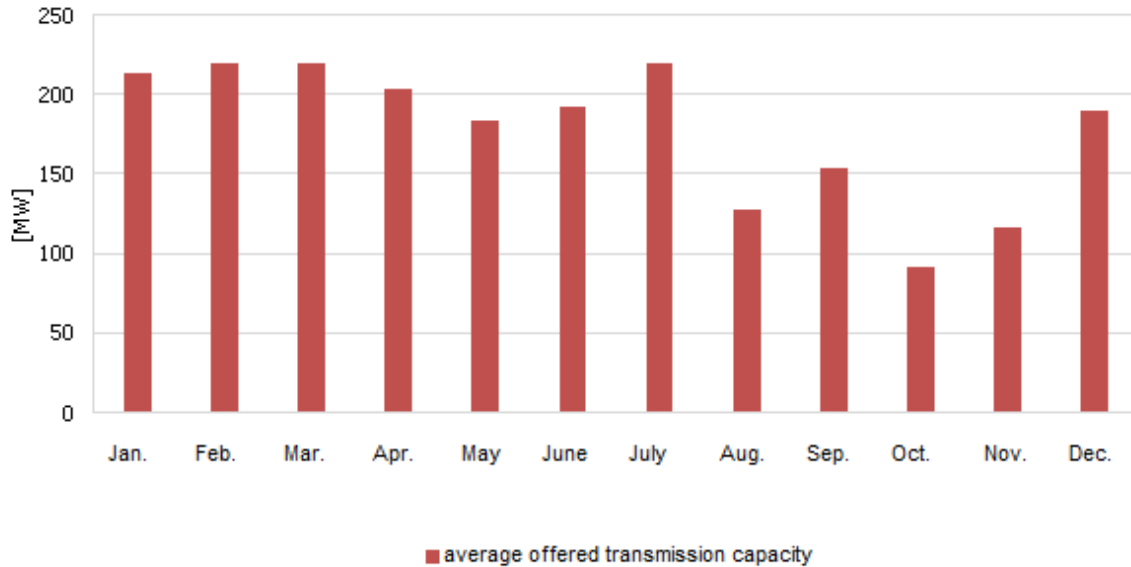
Source: ERO, on the basis of data provided by PSE S.A.

The direction of cross-border exchange under market coupling mechanism is determined by the difference in electricity prices in the coupled intraday markets. In particular, this mechanism ensures that allocation of transmission capacities and thereof their utilisation will enable the flows of electricity from the market with lower price to the market with higher price (in the extreme case this would lead to the adjustment of prices in both markets). The data presented above allow for ascertaining that in 2014 electricity prices were, for most of the time, lower in the Scandinavian market, what resulted mainly in electricity imports to Poland.

The transmission capacities on the Poland-Ukraine interconnection were allocated on the basis of "Rules for monthly auctions of transmission capacity on PSE S.A. and NEK UKRENERGO cross-border interconnection in 2014", according to which capacity is allocated in the import direction to Poland within monthly auctions. Under these auctions transmission capacity in the maximum amount of 220 MW was offered. In the auctions for January, April, May, June, August, September, October, November and December, transmission capacities were decreased on the selected days (reservation sub-periods) due

to scheduled shut-downs of the line or the threat of exceeding load limits. Figure 11 shows average annual transmission capacity on the Poland-Ukraine interconnection, in the UKRENERGO→ PSE S.A. direction (imports), in 2014.

Figure 11. Average transmission capacity on the Poland-Ukraine interconnection, in the UKRENERGO→ PSE S.A. direction (imports), in 2014



Source: ERO, on the basis of data provided by PSE S.A.

Concentration of transmission capacities, made available by PSE S.A., allocated under auctions on synchronous interconnections in 2014.

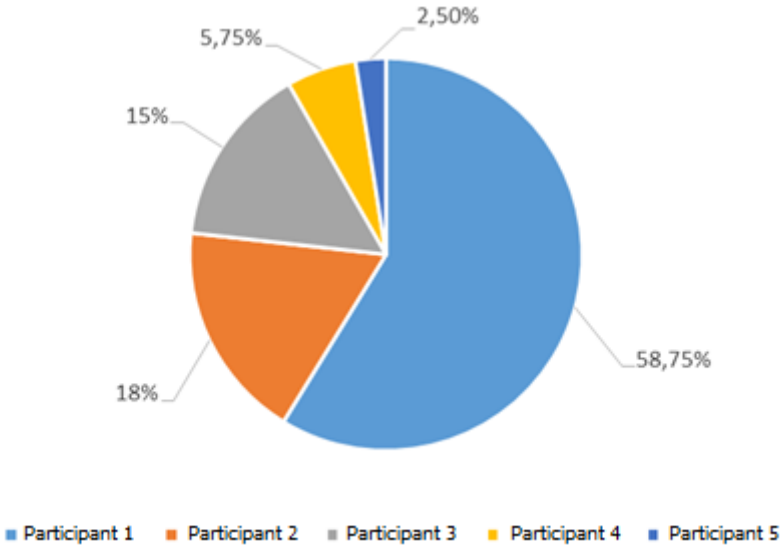
Under the annual auction for transmission capacity reservation offers were submitted by 30 market participants. Transmission capacities were allocated to 5 entities, whereas percentage shares of market participants in transmission capacities allocated under annual auctions varied between 2,5% and 58,8%.

Up to 30 market players have participated in the monthly auctions. Transmission capacities were allocated to 12 market participants, and their percentage shares in allocated capacities were between 0,3% and 35,0%.

Under daily auctions transmission capacities were allocated to 24 market participants in total. Their percentage shares in allocated transmission capacities have not exceeded 32,2%.

Detailed information on the concentration of transmission capacities, made available by PSE S.A., allocated under auctions on the synchronous interconnections in 2014, is shown in figures below.

Figure 12. Percentage shares in capacities allocated to individual market participants – yearly auction

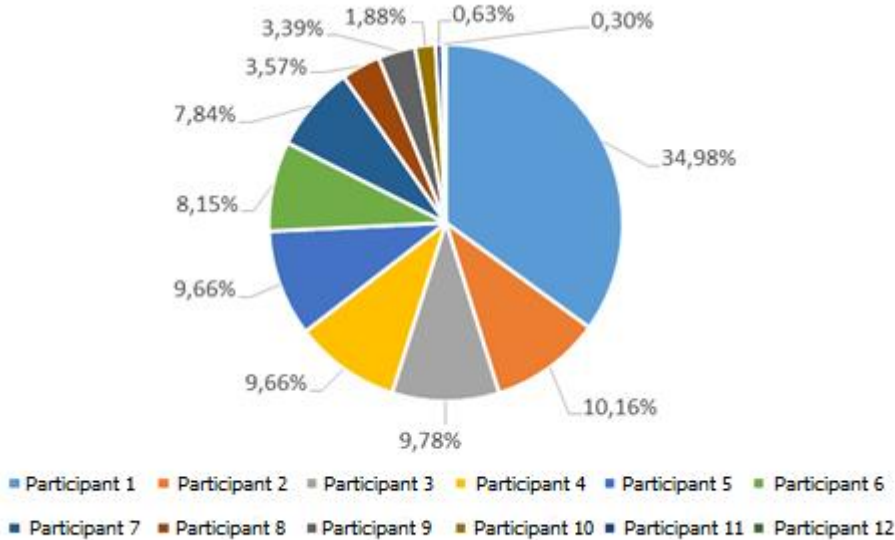


Source: PSE S.A.

Within monthly transmission capacity auctions on the border profiles, PSE S.A. made available transmission capacities in 5 months of the year. Offers for the export direction on Polish border profile were submitted by up to 18 market participants. Transmission capacities during the whole period (2014 – monthly auctions) were allocated to 12 different entities – market participants. In the figure 13 percentage shares in capacities allocated to entities who won monthly auctions are presented.

Maximum market share of one entity was near to 35%.

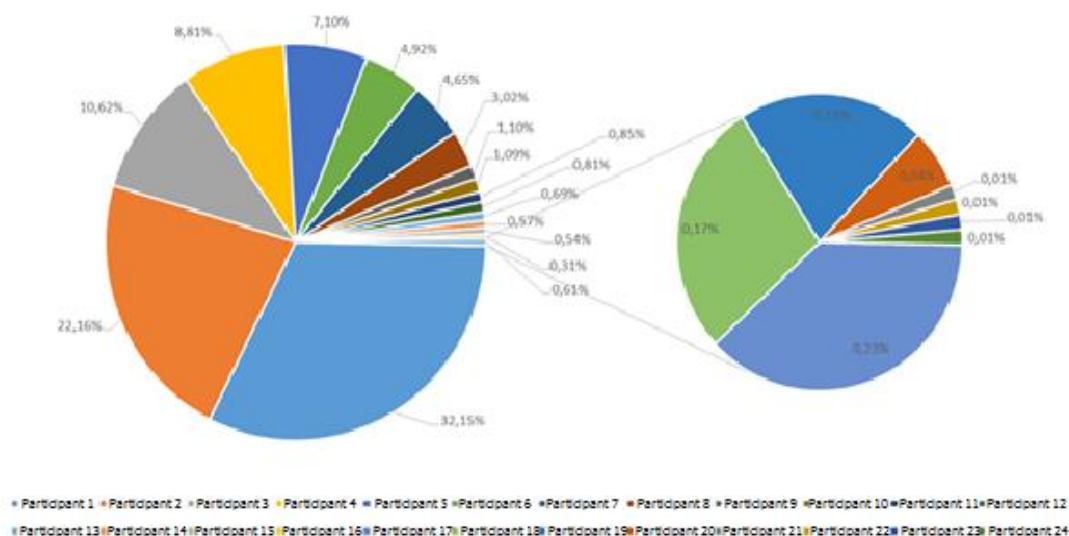
Figure 13. Percentage shares in capacities allocated to individual market participants – monthly auctions



Source: PSE S.A.

Within daily transmission capacity auctions on the Polish border profiles, transmission capacities have been allocated both in the export and import directions. In the whole period (2014 – daily auctions), transmission capacities have been allocated to a total of 24 different entities – market participants. Figure 14 shows the percentage shares in capacities allocated to entities who won the auctions. Fourteen market participants who bought transmission capacities under daily auctions in 2014, held above 1% shares of a total amount of allocated capacities. Maximum market share of one entity was about 32,15%.

Figure 14. Percentage shares in capacities allocated to individual market participants – daily auctions



Source: PSE S.A.

Monitoring the limitations of cross-border transmission services due to capacity shortage or grid failures in 2014

The limitations, understood as reductions of cross-border transmission capacities allocated under auctions, were determined by the transmission system operator according to the rules approved by the President of ERO.

As regards daily auctions for cross-border exchange on synchronous interconnections, no limitations (reductions) occurred, however with respect to long-term auctions in 2014 there was one incident of reduction, i.e. reduction of allocated transmission capacities to 0 MW on the border with Slovakia, on 1 December 2014, from 7.00 a.m. to midnight. This reduction was connected with the necessity to change the damaged elements (lightning protection equipment) of Krosno-Lemieszany line, and therefore with the necessity of emergency shutdown of this power line.

With respect to non-synchronous cross-border exchange on the direct-current interconnector Poland-Sweden, transmission capacities were allocated under market coupling mechanism, which, in principle, does not foresee auctions for timeframe longer than day-ahead. The transmission system operators of Poland and Sweden made the capacity available, accepted and nominated transmission schedules notified by the power exchanges. Commercial execution of schedules was guaranteed by the aforesaid operators. Therefore, it should be stated that in principle, there were no limitations to allocated cross-border transmission capacities.

Other case of non-synchronous cross-border exchange is the exchange on the Poland-Ukraine interconnector via 220 kV Zamość-Dobrotwór line. On this interconnection the reduction of allocated transmission capacities to 0 MW occurred on 28 January 2014, from 9.00 a.m. to 3.00 p.m., which was caused by the necessity to shut down the Zamość-Dobrotwór line due to the damage of earthing switch in Zamość substation in the Dobrotwór line field.

Imposing penalties

The regulations included in the section 7 of the Energy Law Act implement Article 37 (4) (d) of Directive 2009/72/EC. In order to ensure the fulfilment of duties resulting from the Energy Law Act by the energy companies, the Polish legislator introduced also a legal framework providing public administrative bodies with competences to impose sanctions and to enforce them in case of breach of these regulations. The offences for which the financial penalties are imposed were listed in the Act. The Act also comprehensively determines the rules for imposing fines.

The President of ERO is the authority empowered to impose most of the fines. Only in case of violation of obligations related to agricultural biogas production or generation of electricity from agricultural biogas, the competence to impose financial penalties was granted to the President of Agricultural Market Agency. The financial penalties are imposed after conducting administrative proceeding. Such a proceeding is launched ex officio. When determining the amount of fine, the President of ERO is obliged to take into account four conditions: degree of harmfulness, degree of culpability, the behaviour to date and financial capacity of the penalised entity. According to the provisions of Article 56 of the Energy Law Act, the amount of fine cannot, in general, exceed 15% of the revenue of penalised entrepreneur, earned in the preceding tax year. If the financial penalty results from the licensed business activity, the amount of fine cannot exceed 15% of revenue from licensed activity, gained in the preceding tax year. However, in some cases the exceptions to this rule are foreseen and: for non-compliance with the obligations concerning system operator independence, the amount of imposed financial penalty cannot be lower than 1% and higher than 15% of the revenue; whereas for non-issuing grid connection conditions within a fixed deadline, the amount of fine cannot be lower than PLN 3 000 for each day of delay in issuing grid connection conditions. In addition, in case of non-compliance with certain obligations connected with obtaining certificates of origin and submitting them for redemption, as well as in case of not submitting declaration or submitting fraudulent one to the commodity brokerage house or brokerage house, the amount of financial penalty is determined by a formula.

The financial penalty is imposed on the entity required to comply with obligations stipulated in Article 56, paragraph 1, point 1-33 of the Energy Law Act. Hence, these are in principle legal persons, in the form of which energy undertakings operate. Regardless of imposing fines on energy company, the President of ERO has the power to penalise the manager of this company. In this case the maximal amount of fine is 300% of monthly remuneration of this manager.

The Energy Law Act provides for possibility of not imposing a penalty. The President of ERO may decide to renounce from fine imposition if two conditions are met simultaneously, i.e. if the degree of harmfulness is insignificant and the entity stopped violating law or fulfilled the obligation.

Monitoring independence criteria

The President of ERO on 4 June 2014 issued a decision on granting the energy company PSE S.A. the certificate of fulfilling independence criteria, referred to in Article 9d, paragraph 1a of the Energy Law Act.

Since the day of issuing the decision, meeting of independence criteria has been monitored. Special emphasis is laid on the monitoring of issues, which were pointed out as questionable in the opinion of the European Commission, i.e. issue of rights of PSE S.A. to dispose of electrical facilities used for electricity transmission and equal treatment of their owners vis-a-vis other system users, as well as the issue of independence of PSE S.A. in the context of independence of respective governmental bodies.

With respect to the second issue, in February 2015 the Minister of State Treasury acquired the ownership supervision over coal companies, part of which conducts, on a very small scale and only on the local markets, historically conditioned business activity in the field of generation and supply of electricity.

The monitoring is carried out through tracking the information in press and websites. Moreover, once a year the investigation on meeting independence criteria is to be conducted (currently the investigation is pending)

3.2. Promoting competition

3.2.1. Wholesale market

In 2014 gross national electricity consumption amounted to 158 734 GWh and was higher by about 0,5% in comparison to 2013. The level of national electricity consumption did not change significantly, compared to the preceding year, despite of increasing pace of GDP growth in 2014, which according to preliminary estimations of the Statistic Office of Poland, was 3,3%. The volume of gross national electricity generation in 2014 was 156 567 GWh and was lower than the volume in the previous year

by about 3,7%. The difference between these values was balanced by electricity imports which surplus over exports in 2014 amounted to 2 167 GWh. It is worth noting that in 2014 Poland became net electricity importer. The table below shows the structure of generation, consumption and domestic balance of cross-border electricity exchange in 2013-2014.

Table 1. Generation structure, domestic balance of cross-border exchange and electricity consumption in 2013-2014 [GWh]*

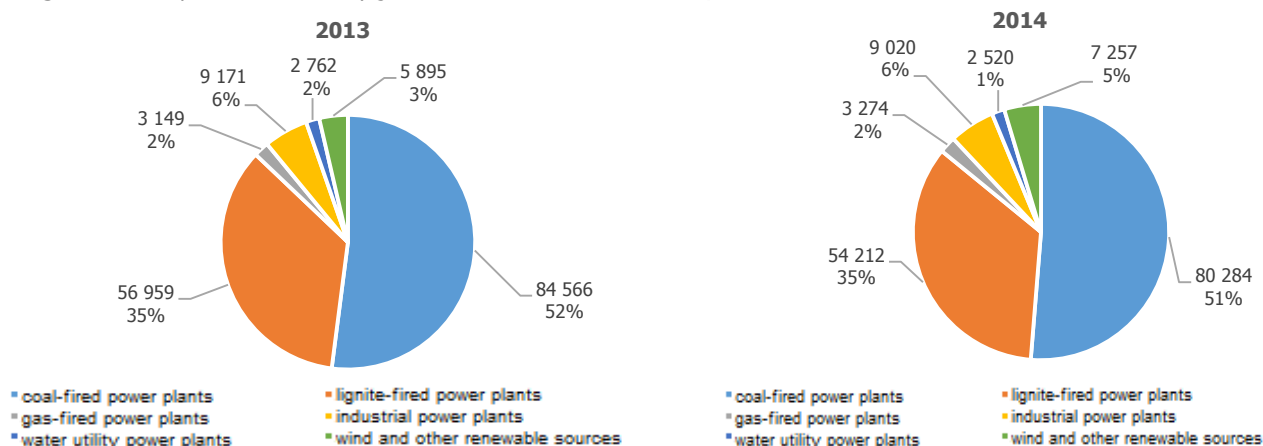
	2013	2014	Growth rate 2014/2013
Total electricity generation	162 501	156 567	-3,65
Hard coal-fired power plants	84 566	80 284	-5,06
Lignite-fired power plants	56 959	54 212	-4,82
Gas-fired power plants	3 149	3 274	3,98
Industrial power plants	9 171	9 020	-1,64
Water utility power plants	2 762	2 520	-8,76
Wind units	5 823	7 184	23,38
Other renewable sources	72	73	0,18
Cross-border exchange balance	-4 521	2 167	-
National electricity consumption	157 980	158 734	0,49

* Presented values are determined on the basis of measurements collected by TSO during regular NES operation. Therefore, in some cases these data may be different from the final data provided by energy undertakings for statistical purposes.

Source: ERO, on the basis of data provided by PSE S.A.

On the national level no significant changes in installed and generating capacity of companies from generation sector were noticed in the last two years. In 2014 installed capacity in NES decreased by about 285 MW (0,7%) in comparison to 2013, and amounted to 38 121 MW. At the same time, generating capacity in NES grew by 1% in 2014 compared to 2013 (from 38 112 MW to 38 477 MW). The average annual capacity demand was 21 996 MW, with maximal demand at a level of 25 535 MW (what means a growth by 0,5% and by 3,1%, respectively, in comparison to 2013). The ratio of available capacity to generating capacity slightly decreased in relation to 2013, from 70,5% to 69,0%.

Figure 15. Comparison of electricity generation structure in 2013-2014 [GWh]



Source: ERO, on the basis of data provided by PSE S.A.

Attention! The percentage values were rounded to full values.

The structure of electricity generation in 2014 did not change significantly in comparison to 2013. The most part of generation is based on conventional fuels, i.e. hard coal and lignite. The growth of shares of wind installations and other renewable energy sources is still continuing.

Wholesale electricity market structure in terms of entities

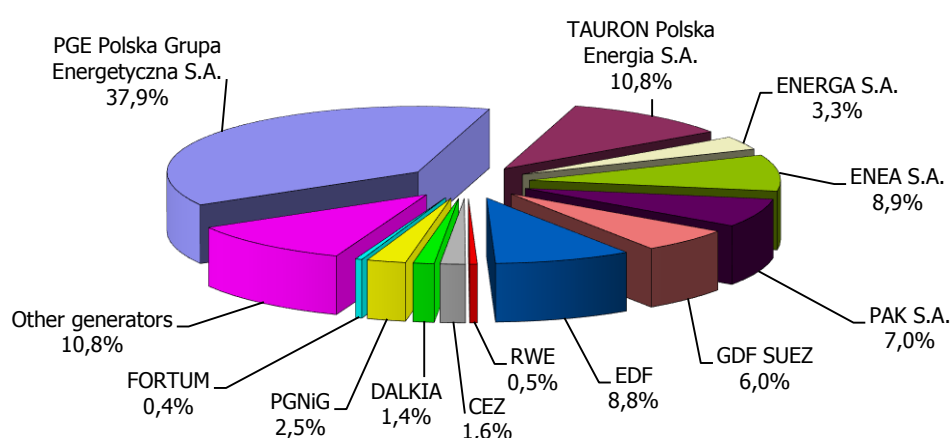
The structure of electricity sector and the level on concentration in electricity market were shaped mainly by the processes of horizontal consolidation and afterwards vertical consolidation of energy undertakings belonging to the State Treasury. The consolidation process was, among others, a result of "Programme for energy sector" adopted by the Council of Ministers in 2006.

The number and structure of entities of electricity sector had not changed significantly since the implementation of "Programme for electricity sector", however over subsequent years there was a change of their market shares.

The biggest share in generation subsector in 2014 was held by capital group PGE Polska Grupa Energetyczna S.A., whereas in the segment of sales to end-users – TAURON Polska Energia S.A. The share of capital group PGE Polska Grupa Energetyczna S.A. in generation sector in 2014 was 37,9%⁶⁾ (in 2013 – 39,3%, decrease by 1,4 percentage point). The share of TAURON Polska Energia S.A. group amounted in 2014 to 10,8%, which means a decline in comparison to 2013 by 2,8 percentage point.

The shares of capital groups in the volume of electricity fed into grid are shown in the figure below.

Figure 16. The shares of capital groups in volume of electricity fed into the grid in 2014



Source: Data of the Ministry of Economy and ERO.

State of competition in electricity market is described mainly by the indicators measuring market concentration level (table 2).

Table 2. State of competition in generation subsector*

Year	Number of entities with at least 5% share in installed capacity	Number of entities with at least 5% share in the volume of energy fed into the grid	Share of three biggest entities in installed capacity [%]	Share of three biggest entities in the volume of energy fed into the grid [%]	HHI Index ⁷⁾	
					Installed capacity	Volume of energy fed into the grid
2013	5	6	55,1	62,5	1 520,5	1 995,5
2014	5	6	53,6	57,7	1 441,0	1 823,1

*For all entities active in generation subsector which are subject to statistical obligation, taking into account installed capacity and volume of energy of wind and water sources, fed into the grid.

Source: Data of the Ministry of Economy and ERO.

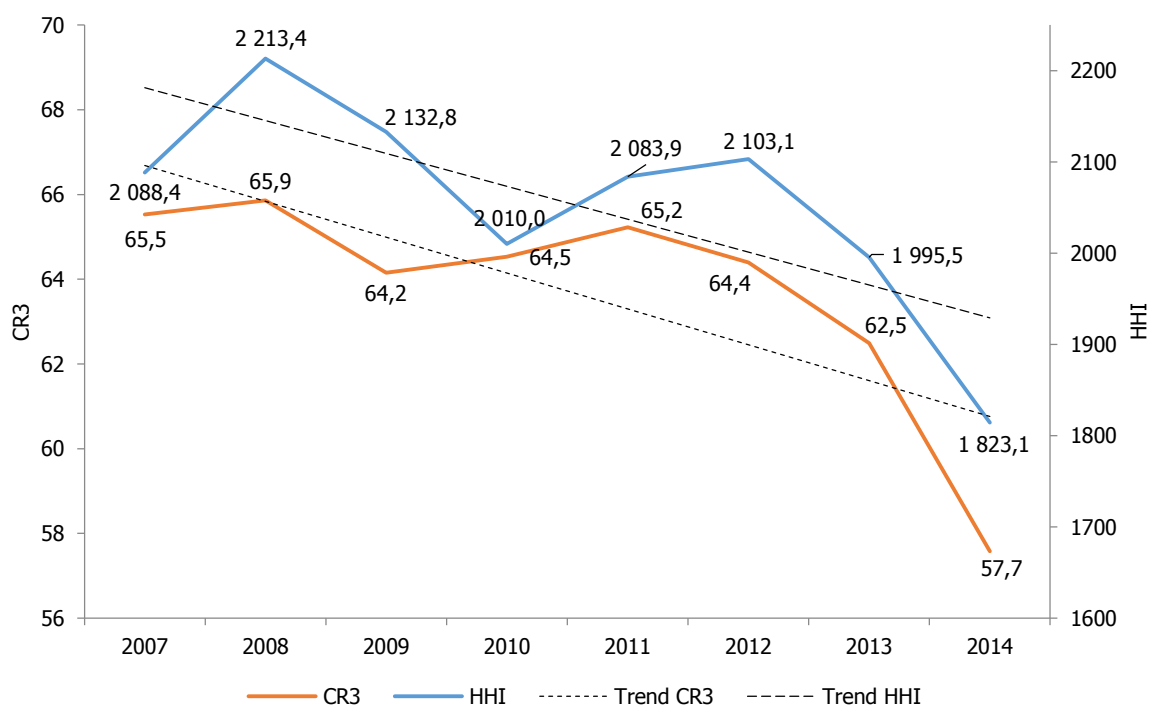
⁶⁾ Calculated according to the volume of electricity fed into the grid.

⁷⁾ Herfindahl-Hirschman Index (HHI) is determined as the sum of the squares of individual market shares of all undertakings constituting a given branch: HHI > 5 000 – very high level of concentration, HHI from 1 800 to 5 000 – high level of concentration, HHI from 750 to 1 800 – medium level of concentration, below 750 – low level of concentration (according to "Report on electric power and gas internal market development progress status", Brussels 2005 and J. Kamiński: *Metody szacowania siły rynkowej w sektorze energetycznym*, Polityka Energetyczna, Volume 12, Number 2/2, 2009).

The market share index of three biggest entities, calculated on the basis of the volume of energy fed into the grid (including volume of energy supplied by generators directly to end-user), in 2014 amounted to 57,7%. At the same time, in comparison with the previous year, this index dropped significantly, i.e. by 4,8 percentage point. The similar tendency may be observed in case of other index – share of three biggest generators in installed capacities – this share decreased in 2014 by 1,5 percentage point, compared to 2013. Three biggest generators (i.e. concentrated within capital groups: PGE Polska Grupa Energetyczna S.A., TAURON Polska Energia S.A., ENEA S.A.) held a little more than half of installed capacities and were responsible for less than 60% of electricity generation in the country. Among three dominant entities on the electricity generation market, in 2014 generators functioning within capital group ENEA S.A. occurred for the first time. In previous years this position was held by generators of EDF capital group, holding slightly higher market share than ENEA S.A. capital group.

The decreasing tendency for HHI index measured according to installed capacity and according to volume of energy fed into the grid (including volume of energy supplied by generators directly to end-user) was retained in 2014. The drop of this index was significant as it decreased in 2014, in comparison to 2013, by 5,2% and 8,6%, respectively. It is worth underlying that this index calculated for generation is, in practice, between medium and high concentration, whereas for installed capacity – it is well under the high concentration threshold. The change of concentration index and market share index for three biggest entities in generation subsector in 2007-2014 is presented in the figure below.

Figure 17. Concentration in generation subsector and market shares of three biggest entities according to the volume of energy fed into the grid in 2007-2014



Source: Data of the Ministry of Economy and ERO.

Referring to the above concentration data it should be noted that over last two years these indices significantly decreased. It is mainly caused by the growth of electricity generated in renewable energy sources, wind in particular, in national energy generation structure. In 2014 the concentration index decline resulted also from the change of cross-border trade balance from exports to imports, which is connected with the decrease in national electricity generation in conventional sources, compared to the previous year. Also in the long-term time horizon (years 2007-2014), the trend of change in concentration index and market share of three biggest entities has been decreasing.

The structure and mechanisms of the electricity wholesale market functioning do not vary from corresponding structures and mechanisms developed in the majority of other European countries, perceived as competitive markets. Market participants have equal and broad access to different forms

of electricity sales and access to information about volumes and prices for electricity sales and contracting on the wholesale market.

In case of generators, in 2014, similarly to 2013, the main forms of electricity sales were: sales within regulated markets, with a significant role of power exchange, as well as sales to trading companies. In case of trading companies, they targeted their sales mainly to other trading companies and to end-users. To a smaller but also important extent, they directed electricity sales to power exchange.

3.2.1.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition

Monitoring of electricity market functioning includes, among others, wholesale prices.

As part of conducted monitoring, the information on bilateral contracts concluded on the wholesale OTC market and power exchange (POLPX) is collected and analysed. Basing on the information from the surveys of electricity generators and trading companies and from official statistic, the data concerning i.a. average quarterly prices of electricity sales on competitive market and average quarterly prices of electricity sales other than public sale are calculated and published.

Average annual price of electricity sales on the competitive market

Under Article 23, paragraph 2, point 18, letter b of the Energy Law Act, the President of ERO is obliged to publish, by 31 March each year, an average price of electricity sales on competitive market in the preceding year. In 2013 the average price of electricity sales on the competitive market was 181,55 PLN/MWh, whereas in 2014 this price amounted to 163,58 PLN/MWh. As it results from the above, the average price on competitive market fell down by around 10% in comparison to the price in the preceding year. Comparing the average price of electricity on the competitive market in 2014 with the price on the power exchange managed by POLPX, it should be stated that this price was lower than the average price of electricity on the spot market in 2014 (185,23 PLN/MWh), and at the same time slightly higher than average price of transactions on the forward market (160,83 PLN/MWh).

The algorithm for calculation of the average price of electricity on the competitive market in 2013 and 2014 included electricity sales (volume of sales and value of sold electricity) carried out by generators and trading companies within competitive segments of national electricity wholesale market, i.e. sales to:

- trading companies under bilateral contracts,
- power exchange.

Sales of electricity to the balancing market were not taken into account in the algorithm for price calculation due to technical nature of this market segment.

In case of vertically consolidated capital groups⁸⁾, volume of electricity sales and value of its sales to trading companies outside the capital group and to power exchange were taken into account in the price calculation.

Average quarterly price of electricity sold according to principles other than those referred to in Article 49a, paragraph 1 and 2 of the Energy Law Act

Pursuant to Article 49a, paragraph 8 of the Energy Law Act, the President of ERO is obliged to announce in the Bulletin of ERO, within 14 days from the end of a quarter, the average quarterly price of electricity that does not fall under obligation stipulated in paragraph 1 and 2 of this Article (i.e. which is not subject to public sale obligation). The volume and quarterly price of electricity sold according to the rules other than those set out in Article 49a, paragraph 1 and 2 of the Energy Law Act, in subsequent quarters of 2014 were as follows:

⁸⁾ Capital group – capital group in the meaning of Article 3, paragraph 1, point 44 of the Act of 29 September 1994 on the accountings (consolidated text, Journal of Laws of 2013, item 330).

2014		
quarters	Average quarterly price of electricity sold according to principles other than those referred to in Article 49a, paragraph 1 and 2 of the Energy Law Act [PLN/MWh]	Volume of electricity sold according to principles other than those referred to in Article 49a, paragraph 1 and 2 of the Energy Law Act [TWh]
I	158,14	11,06
II	164,70	9,13
III	167,92	9,42
IV	167,97	10,84

Source: ERO, on the basis of data provided by electricity generators for individual quarters of 2014.

As it is presented in the table above, the average quarterly price of electricity that does not fall under public sale obligation showed in 2014 an increasing trend in individual quarters. At the same time it should be stated that the level of weighted average quarterly price in 2014 (164,53 PLN/MWh) was slightly higher than the average price of electricity sales on the competitive market in 2014.

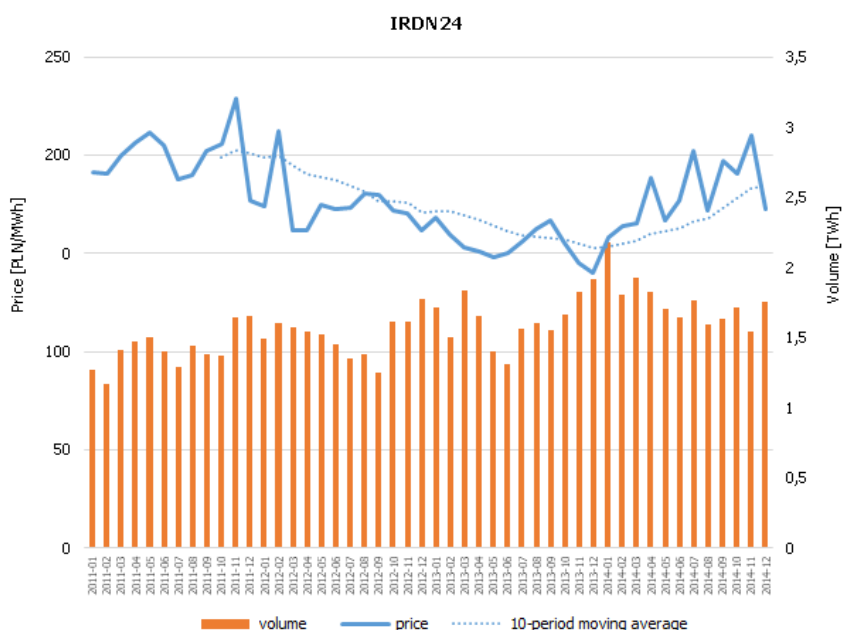
For calculation of average quarterly price of electricity sold according to principles other than those set out in Article 49a, paragraph 1 and 2 of the Energy Law Act, regulator takes into account the data from the execution of agreements on electricity sales to trading companies, concluded by energy undertakings involved in electricity generation, which are obliged to sell part of generated electricity in a manner referred to in Article 49a, paragraph 1 and 2 of the Energy Law Act. This price does not include taxes (VAT, excise duties), fees not connected with the volume of sold electricity and obligations related to the certificates of origin.

Prices on POLPX spot market

The graph below shows the prices on the spot market – DAM, managed by POLPX. IRDN24 index represents arithmetic average price of all transactions of the trading session, calculated for particular delivery date.

Average annual prices on DAM increased in 2014 in comparison to the previous year by 18,5%. Figure 18 shows these prices in the years 2011-2014.

Figure 18. Average monthly price of electricity in spot transactions measured by IRDN24 [PLN/MWh] and volume of electricity traded on DAM [MWh]



Source: POLPX and ERO.

Prices on POLPX forward market

In 2014 the growth of electricity prices on forward electricity market was observed. This trend is reflected by the increase of prices of BASE_Y-15 forward contracts (base-load contract with delivery in 2015), where volume weighted average transaction price of this contract throughout 2014 was equal 169,25 PLN/MWh. In comparison to 2013, when the price of BASE_Y-14 forward contracts concluded in 2013 for a delivery in the next year amounted to 155,13 PLN/MWh, one can observe the increase in prices of forward contracts by about 9%.

At the same time the average monthly price of BASE_Y-15 contracts in December 2014 amounted to 175,53 PLN/MWh, whereas the average monthly price of corresponding contracts in December 2013 was 158,40 PLN/MWh, which represents growth of this price by 10,8% in 2014 compared to the previous year.

Transparency of the wholesale energy market

On 28 December 2011 REMIT regulation entered into force. Under this regulation several new obligations were imposed on ACER and national regulatory authorities in the field of monitoring the wholesale energy markets, detecting of and preventing from manipulations and attempts of manipulation in the market, and preventing from the use of insider information. At the same time, in order to enable these entities to fulfil the tasks imposed on them, the regulation obliges market participants to provide ACER with detailed data on contracts concluded on wholesale energy markets. Every market participant, prior to concluding the first contract which fall under notification obligation, is required to register itself in the market participant register, established and kept by national regulatory authority. In 2014, as well as in the previous years, the President of ERO was informing the market participants about entry into force of REMIT regulation and about obligations arising under it, through the communications published on the ERO website.

The regulator will be able to fulfil its tasks resulting from REMIT obligations, related to preventing from manipulations and attempts of manipulation on energy wholesale markets as well as from use of insider information, after entering into force of the national law enabling practical application of REMIT regulation. The respective regulations have been included in the draft novelisation of the Energy Law Act. Currently the legislative process on this draft is pending. It started in 2014 and has not been completed so far. The representatives of the President of ERO have been actively participating in this process.

3.2.2. Retail market

Electricity retail market is a market where end-users purchasing electricity for their own needs are parties to the transactions. Apart from the final consumers (both households and businesses) on the retail market there are also undertakings operating distribution grid, including DSOs, and electricity suppliers (trading companies).

In 2014 the President of ERO retained the obligation to submit for approval, each year, electricity tariffs for consumers classified to G tariff group connected to the grid of distribution system operator, who did not switch supplier. For other groups of consumers electricity prices are shaped by the market. The electricity tariffs for G tariff groups, approved by the President of ERO, are published in the Bulletin of ERO.

3.2.2.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition

Since 2010 all electricity suppliers selling energy to final consumers have been legally obliged to publish on their websites and to make publically available at their seats information about prices of electricity sales and terms and conditions for their application. For big industrial/commercial consumers, supply companies usually present their offer on individual basis. Prices and other terms are each time

negotiated with counterparts and are different, depending on duration of supplies, volumes and firmness of take-off.

In 2014, similarly to the previous year, there was a tariff calculator available on the ERO website, enabling comparison of electricity suppliers' offers addressed to household consumers and, therefore, supporting them in choosing the best offer. In 2014, on average, 28 suppliers per month uploaded their offers to the tariff calculator.

The President of ERO monitors, on quarterly basis, the average electricity sales prices applied to households, broken by consumption criteria (i.e. consumers with annual electricity consumption up to 50 MWh, between 50 MWh and 2 000 MWh and above 2 000 MWh). In ad hoc examinations – depending on the needs – the President of ERO monitors the level of household electricity prices, with the use of official statistics. The relevant data is presented in the table below.

Table 3. Number of consumers, volume, value and average electricity prices applied to final consumers, divided by consumption criteria

Consumption criteria	Number of consumers	Volume [MWh]	Value [thousands PLN]	Average price [PLN/MWh]
< 50 MWh	16 585 161	43 369 569	11 759 105	271,14
50 – 2 000 MWh	53 907	27 857 892	6 345 263	227,77
> 2 000 MWh	3 400	32 713 459	6 290 359	192,29
TOTAL	16 642 469	103 940 920	24 394 727	234,70

Source: on the basis of quarterly questionnaires of default suppliers for 2014.

Still, the biggest share in electricity sales to end-users is held by incumbent suppliers, who remained parties to common service agreements (i.e. agreements including the provisions of electricity sale agreement and distribution service agreement with final consumers) after the unbundling of distribution system operators. They act as default suppliers for households that have not decided to switch supplier. In 2014 there were five default suppliers on the market, as well as more than 100 alternative trading companies actively selling electricity to end-users, including suppliers active on household market segment. On the electricity market there are also suppliers (164) functioning within undertakings vertically integrated with DSO.

The demand side of electricity retail market comprises final consumers. There are about 16,9 million of end-users, 90,2% of whom (more than 15 million) are consumers in G tariff group, including vast majority of household consumers (over 14 million) buying electricity for household consumption. The remaining group of end-users comprises consumers of A, B and C tariff groups. Group A and B include consumers supplied on high and medium voltage grids, and they are the so-called industrial consumers; whereas group C comprises consumers connected to low voltage grid, taking-off electricity for business purposes, the so-called business consumers. The electricity consumers are entitled to be supplied in electricity in continuous and reliable manner, by chosen electricity supplier.

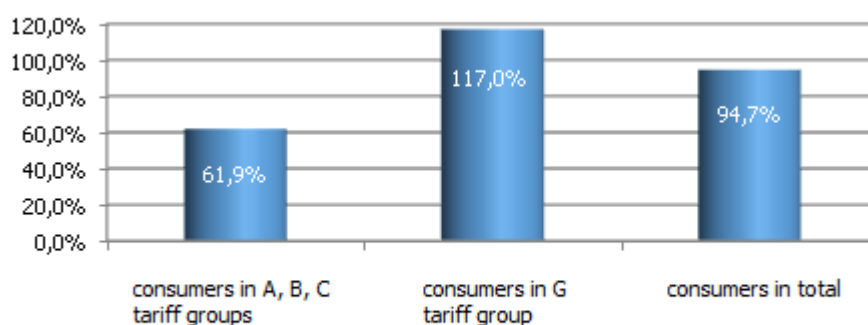
The extent to which consumers exercise their rights on the retail energy market is measured by the tendency of these consumers to enter into agreement with freely chosen electricity supplier. From obtaining the right to switch supplier, i.e. from 1 July 2007, to the end of 2014 more than 144 000 consumers of A, B and C tariff groups executed their right to purchase electricity from a chosen supplier, whereas in the household segment their number was 284 000. That year was another year of dynamic growth in number of consumers who switched supplier. At the end of 2014 the number of consumers under TPA rule increased by 94,5%, compared to 2013, whereas in case of A, B and C tariff groups this increase amounted to 61,9%, and in case of G tariff group – 117%. It should be also noticed that the number of consumers who switched a supplier in the segment of consumers purchasing electricity for household consumption increased over two-fold in comparison to 2013.

Therefore, the lingering pace of changes of the TPA index in household segment, in comparison to business segment, may be observed. This may be influenced by information campaign held by the President of ERO over the recent years, regular consumer knowledge expos, as well as an access to household price comparison tool available on ERO's website. The other factor influencing the observed situation was the increase of activities aimed at gaining clients by electricity trading companies, as well as increased activity of the alternative suppliers (new trading companies). This activity, perceived as positive for the retail market development, had also some negative aspects. In 2014, similarly to previous years, ERO received signals – mainly from household consumers – concerning aggressive

marketing and sales practices applied by some suppliers when presenting offers and concluding new sales agreement. Such incidents confirmed the necessity to continue educational and information campaigns aimed at increasing knowledge and awareness of small consumers. Notwithstanding the above, together with the increase in the number of consumers deciding to switch supplier, there were irregularities related to application of supplier switching procedure and activities of individual market participants (suppliers, DSOs, agents, brokers) observed on the electricity retail market. When evaluating growth indicators it should be noted that, in the global context, still relatively small number of consumers (about 2,53%) has so far exercised the right to switch supplier, although it should also be underlined that, in comparison to 2013, the significant growth of this index has occurred (in 2013 it amounted to 1,31%).

The percentage increase of TPA consumers broken down by tariff groups at the end of 2014, in comparison with the preceding year, is presented in figure 19.

Figure 19. Percentage change of TPA consumers divided into tariff groups (as at the end of 2014, in comparison to the previous year)

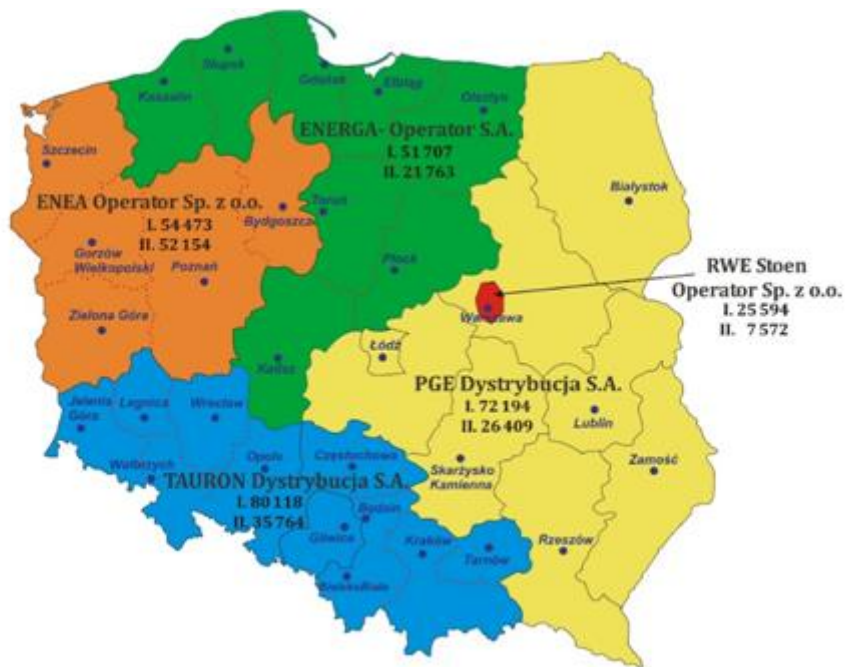


Source: ERO, on the basis of data provided by DSOs.

As it results from the analysis of data provided by individual operators, in 2014 exercising of the TPA right was differentiated between country regions (figure 20). In 2014 the highest number of consumers of A, B and C tariff groups who switched a supplier resided within operational area of ENEA Operator Sp. z o.o. (52 154 consumers). In case of households, the biggest number of consumers who switched supplier was recorded within operational area of TAURON Dystrybucja S.A. (80 118 households).

In 2014 the biggest volume of electricity supplied under TPA rule was purchased by consumers connected to the grid of TAURON Dystrybucja S.A., where electricity supplied to TPA consumers amounted to over 57,49% of all electricity supplied (26 236,9 GWh) through this DSO's grid. This situation is caused by significant share of big industrial consumers under TPA rule in a total volume of electricity supplied to consumers connected to the grid of this DSO.

Figure 20. Execution of TPA rule within operational areas of individual distribution system operators



Number of TPA consumers within operational areas of 5 DSOs
I. Consumers in G tariff Group
II. Consumers in A, B and C tariff groups

Source: ERO.

A total volume of electricity sold in 2014 to end-users (delivered via distribution grids) on the market-based conditions, i.e. after exercising TPA rule, amounted to 56 714,7 GWh, i.e. 43,58% of total volume of electricity supplied to final consumers. It is worth noting that in 2013 end-users supplied on the market-based conditions, i.e. after exercising TPA rule, were provided with electricity in the amount of 48 654,6 GWh, what constituted 37,94% of total electricity supplies to final consumers. The quoted data indicates that there has been growth of competition in the electricity market in Poland.

Consumers of A, B and C tariff groups comprise those final consumers who purchase electricity on high, medium and low voltage grids, for the purposes other than household needs. These are consumers whose electricity prices are not subject to the approval of the President of ERO. On the other hand, the consumers of G tariff group are the consumers who take electricity on the low voltage grid for household purposes. Tariffs for electricity sales for these consumers are still approved by the President of ERO. Moreover, it should be indicated that the tariffs are applied only by default suppliers. The supplier who does not act as default supplier, applies prices not regulated by the President of ERO.

3.2.2.2. Recommendations on supply prices, investigations and measures to promote effective competition

System of price regulation

The President of ERO still maintains the obligation to submit for approval, on the annual basis, electricity tariffs for consumers classified to G tariff group, connected to the grid of distribution system operator, who have not decided to switch supplier. Electricity prices for these consumers are included in the tariffs of trading companies, approved by the President of ERO and published in the "Branch Bulletin of the Energy Regulatory Office – electricity". Electricity prices for other groups of consumers are regulated by the market.

The approval process of electricity tariffs for 2015 started in November 2014. As a result of conducted proceedings, in December 2014 these tariffs were approved by the President of ERO for a period until 31 December 2015.

Given the exemption from the obligation to submit for approval electricity trading tariffs for consumers other than consumers of G tariff group, granted by the President of ERO to energy companies, regulator approves only tariffs for households. Calculation of tariffs of these undertakings is based on clearly determined rules, which take into account, among other things, external costs of energy undertakings, including costs of support systems for different energy sources, including RES. This allows for minimisation of downside risk by the undertaking. In addition, in case of significant change in external conditions, undertakings are allowed to apply to the President of ERO for tariff correction in respect to increased costs.

Carrying out investigations and imposing measures to promote effective competition

In 2014 the President of ERO received several dozen complaints requesting investigation in cases related to activities of energy undertakings, which, according to consumers, violated their interests connected with supplier switching.

The President of ERO undertook several actions to clarify issues covered by the complaints, which concerned cases of hindering electricity supplier switching through:

- improper functioning of data exchange platforms within IT systems,
- ordering of electricity meter removal as a result of mistake or misconduct of energy undertaking's employee,
- incidents of double invoicing,
- unreasoned launching of last resort supply,
- unjustified obliging of consumers to adapt metering and reading systems,
- questioning the effectiveness of terminated agreements (e.g. giving a notice of termination without power of attorney appended thereto),
- terminating agreements without respective notice period,
- unfounded rejecting of supplier switching applications (e.g. due to incorrect personal data of the consumer or incorrect address data of the Energy Delivery Points),
- lacking distribution agreement after completion of supplier switching process,
- not signing General Distribution Agreements (GDA) by small DSOs,
- delays in submission of meter readings.

The actions undertaken by the regulator in relation to the above-mentioned complaints in most cases lead to successful switching of supplier by electricity consumers.

Two examples of complaints dealt with by the President of ERO in 2014 are described below.

The complaint of one alternative supplier, submitted to the President of ERO, concerned repeated problems caused by one of the DSOs as regards supplier switching notifications. The President of ERO requested the DSO to provide explanations concerning e.g. improper functioning of data exchange platforms (DEP), lack of DEP transparency, not meeting the deadlines for verifying the notifications by the operator, delaying the submission of distribution service agreements by the DSO to consumers for signature, prolonged process of changing the tariff group on the DSO side and delays in publication of information about timely termination of electricity sale agreements on DEP. As it results from the DSO's explanations, the problems raised by the supplier regarding platform functioning were monitored and solved on regular basis. More flexible deadlines for notification of concluded sales agreements and double-checking of notifications were proposed. Moreover, as operator underlined, dates of notifications' verification were set on the basis of DNC, taking into account its transparency with respect to all system users. In reference to the accusation of prolonged process of changing the tariff group, the DSO explained that the objections of consumers in this area were connected with the adjustment of metering and reading systems to the chosen tariff group, and this operation required physical access to the place of metering system installation. Moreover, adopted solutions related to informing about expiration of sales agreement term allow for eliminating obstacles hindering development of the competitive market. With regard to all explanations provided by the DSO, the President of ERO took into account the fact that irregularities in supplier switching process were partially unintentional as they resulted from delays in implementation of necessary changes to the IT system. Moreover, they have not affected, in any

way, the deadlines for carrying out supplier switching process, stipulated in the network code. On the other hand, the development of IT systems improves customer service, and expansion and modernisation of the distribution grid are aimed at ensuring secure supply of electricity of appropriate parameters.

Other actions undertaken by the President of ERO concerned the complaint of consumer who switched supplier and did not receive bills for consumed energy and distribution service. The consumer contacted the new supplier and the DSO in order to explain the situation. The supplier ensured consumer that he was included in the register of clients, although he had not concluded electricity sales agreement. The DSO informed the consumer that the distribution service agreement has not come into force due to the lack of supplier's confirmation. After regulator's intervention the supplier confirmed that the concluded sales agreement entered into force as of beginning of 2014 and explained that the delay in issuing a bill for consumed energy resulted from the lack of metering and settlement data, which are provided by DSO. The DSO admitted that due to the increased number of applications for supplier switching at the turn of 2013/2014, the delays in signing the distribution service agreements and their recording in billing system occurred. At the same time DSO informed that the clearing invoice covering a period from the supplier switching day will be promptly sent to consumer, together with the letter explaining this situation. The consumer confirmed that he received outstanding clearing invoices from both the supplier and the DSO.

Antimonopoly proceedings on cases restricting competition and other actions conducted by the President of OCCP in reference to the energy sector⁹⁾

In 2014, in relation to energy undertakings, the President of OCCP conducted, among others, the following antimonopoly proceedings:

1. On 19 December 2014 an explanatory proceeding was initiated (Re. No.: RKR-265/2014) due to the suspicion that Tauron Sprzedaż sp. z o.o. with its registered office in Krakow, abused the dominant position in the market of last resort supply within the following operational areas: Jeleniogórskie, Legnickie, Opolskie, Wałbrzyskie, Wrocławskie, Bielskie, Będzińskie, Częstochowskie, Krakowskie and Tarnowskie, by:
 - 1) imposing, on energy consumers, excessive obligation to provide financial security within 5 days from the date of concluding an agreement on last resort supply, on account of future payments arising from this agreement,
 - 2) applying, in the agreements on last resort supply, provisions, under which supplier is entitled to unilaterally terminate the agreement and, therefore, to stop supplying electricity in cases other than those stipulated in Article 6a and 6b of the Energy Law Act, under which the energy company is allowed to suspend the supply of electricity,what may constitute a breach of Article 9, paragraph 1 of the Act of 16 February 2007 on competition and consumer protection. The proceeding has not been completed in 2014.
2. On 19 December 2014 an antimonopoly proceeding was initiated (Re. No.: RKR-266/2014) due to the suspicion that Tauron Sprzedaż GZE Sp. z o.o. with its registered office in Gliwice, abused the dominant position in the market of last resort supply within operational area Gliwice, by:
 - 1) imposing, on energy consumers, excessive obligation to provide financial security within 5 days from the date of concluding an agreement on last resort supply, on account of future payments arising from this agreement,
 - 2) applying, in the agreements on last resort supply, provisions, under which supplier is entitled to unilaterally terminate the agreement and, therefore, to stop supplying electricity in cases other than those stipulated in Article 6a and 6b of the Energy Law Act, under which the energy company is allowed to suspend the supply of electricity,what may constitute a breach of Article 9, paragraph 1 of the Act of 16 February 2007 on competition and consumer protection. The proceeding has not been completed in 2014.
3. In 2014 the President of OCCP continued the proceeding regarding suspicion that ENEA OPERATOR Sp. z o.o., with its registered office in Poznań, applied practices restricting competition, referred to in Article 9, paragraph 2, point 5 of the Act on Competition and Consumer Protection, consisting in abusing the dominant position in the local electricity distribution market covering areas of the

⁹⁾ Fragment prepared on the basis of information provided by Office of Competition and Consumer Protection (hereinafter: "OCCP").

following voivodeships: Wielkopolskie (former Poznańskie, Pilskie and Leszczyńskie voivodships), Zachodniopomorskie, Lubuskie and Kujawsko–Pomorskie (former Bydgoskie voivodship), through counteracting the development of competition in the domestic electricity generation market by gross violation of deadlines for issuing grid connection conditions, stipulated in the secondary legislation to the Energy Law Act, and describing the scope of impact assessment of planned wind farm on the electricity system (Re. No.: RPZ-411/6/07/ES/JK).

The current proceeding constitutes continuation of the proceeding concluded in point II of the decision of the President of OCCP of 30 September 2008 (Re. No.: RPZ-34/2008). As a result of appealing procedure, the aforesaid point of the decision was set aside by the judgement of the Appealing Court of 17 March 2011 (VI ACa 1027/10), whereas by the sentence of 8 March 2012 (III SK 36/12) the Supreme Court refused to consider the cassation complaint submitted by the President of OCCP. Hence, in this respect the proceeding is being carried out once again.

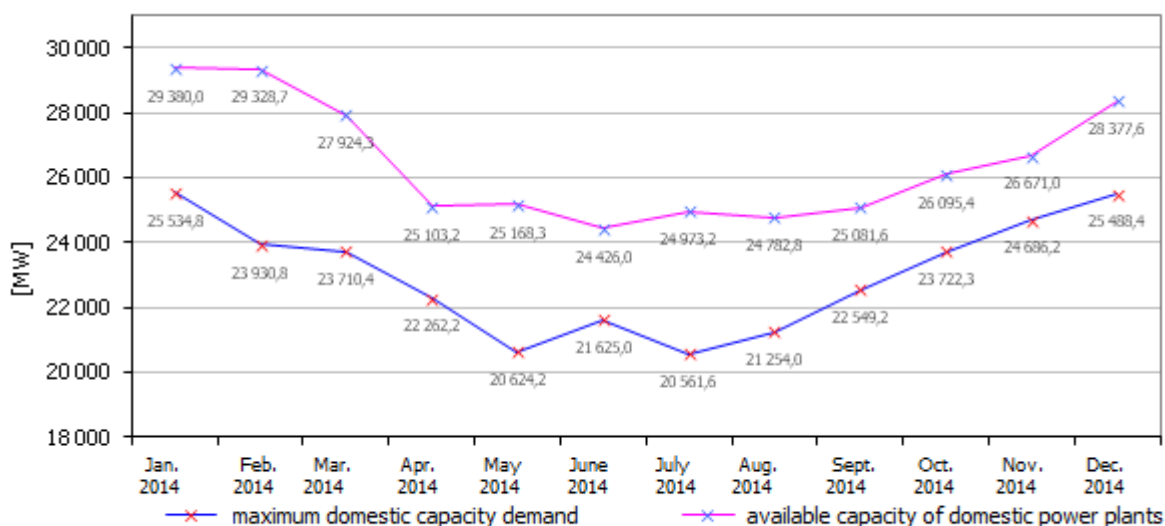
Moreover, in 2014 the President of OCCP carried out several explanatory proceedings concerning actions of companies in the energy sector.

3.3. Security of supply

3.3.1. Monitoring balance of supply and demand

As part of the monitoring of security and reliability of grid operation, the President of ERO reviews actions undertaken by electricity system operators in this regard, as well as evaluates them in terms of ensuring proper grid operation. In particular, within the monitoring of electricity system operation, the relation between available capacity of domestic power plants and maximal capacity demand in NES in subsequent months of 2014 has been assessed, what is shown in the figure below.

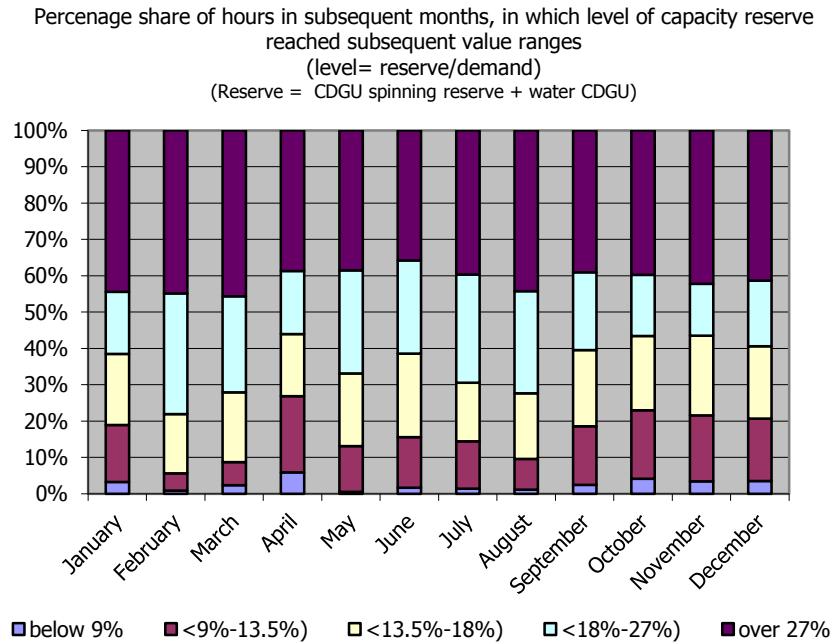
Figure 21. Available capacity of domestic power plants and maximum domestic capacity demand in the evening peaks, average values on working days of subsequent months in 2014.



Source: ERO, on the basis of data provided by PSE S.A.

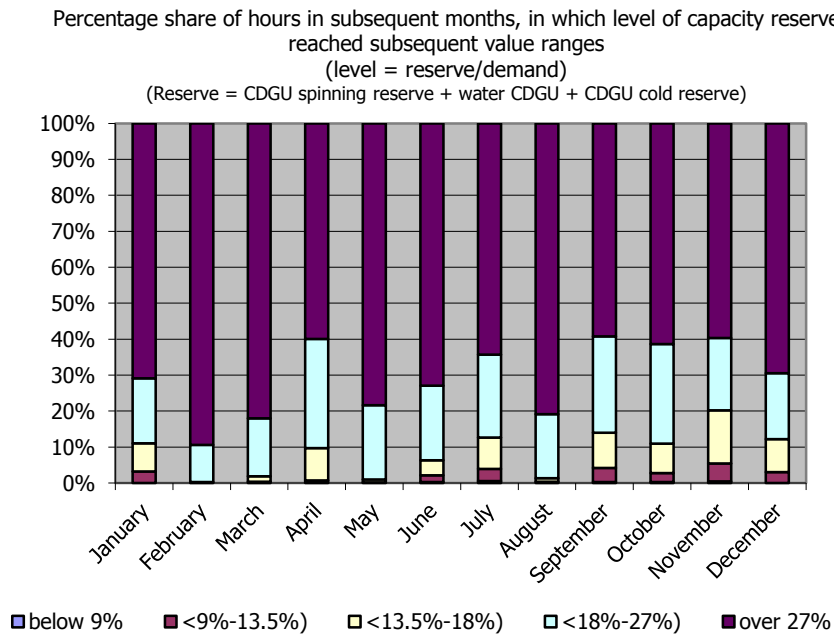
Figures 22 and 23 present the percentage share of hours in the month, in which the capacity reserve related to the capacity demand reached subsequent value ranges, i.a. reference value determined in the TNC at the level of 9%. Figure 22 shows the capacity reserves calculated as a sum of thermal CDGU spinning reserve and water CDGU reserve, whereas figure 23 presents capacity reserve calculated as sum of thermal CDGU spinning reserve, water CDGU reserve and thermal CDGU cold reserve.

Figure 22. Percentage share of hours in subsequent months, in which capacity reserve (sum of thermal CDGU spinning reserve and water CDGU reserve) compared to capacity demand, reached the level: below 9%, from 9% up to and including 13,5%, from 13,5% up to and including 18%, from 18% up to and including 27% and over 27%



Source: ERO, on the basis of data provided by PSE S.A.

Figure 23. Percentage share of hours in subsequent months, in which capacity reserve (sum of thermal CDGU spinning reserve, water CDGU reserve and thermal CDGU cold reserve) compared to capacity demand, reached the level: below 9%, from 9% up to and including 13,5%, from 13,5% up to and including 18%, from 18% up to and including 27% and over 27%



Source: ERO, on the basis of data provided by PSE S.A.

Table 4. Minimum and maximum capacity reserve (including cold reserve) in 2014 in the morning and evening peaks (based on daily reports of PSE S.A. on all days of the year)

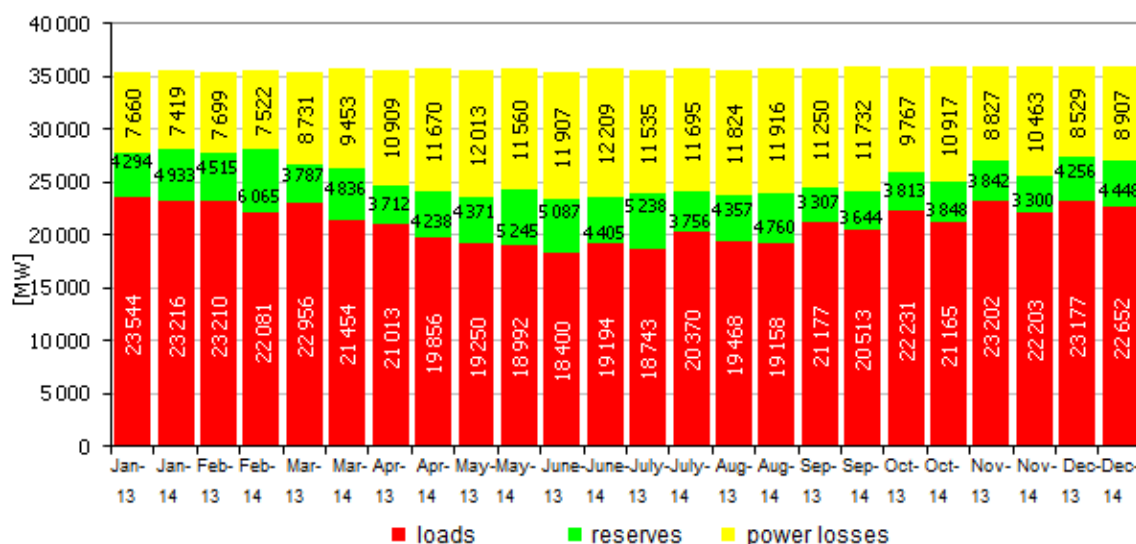
	Morning peak		Evening peak	
	Capacity reserve [MW]	reserve/demand [%]	Capacity reserve [MW]	reserve/demand [%]
min	1 299	6,0	1 053	4,8
max	13 551	93,2	12 661	66,2

Source: ERO, on the basis of data provided by PSE S.A.

Figure 24 shows the average monthly values (for evening peaks on working days) of loads, losses and reserves for subsequent months of 2013 and 2014. According to the presented data, in 2014 the average level of reserves in the system in relation to recorded loads was slightly higher than in 2013, excluding June, July and November. Basing on the average values for evening peaks on working days, shown in figure 24, it may be observed that in 2014 the average value of losses was slightly higher compared to 2013, except for the first two months and May.

Taking into account annual average, in 2014 compared to 2013, there was slight increase in capacity reserves of utility power plants and capacity losses connected with general, medium and emergency repairs.

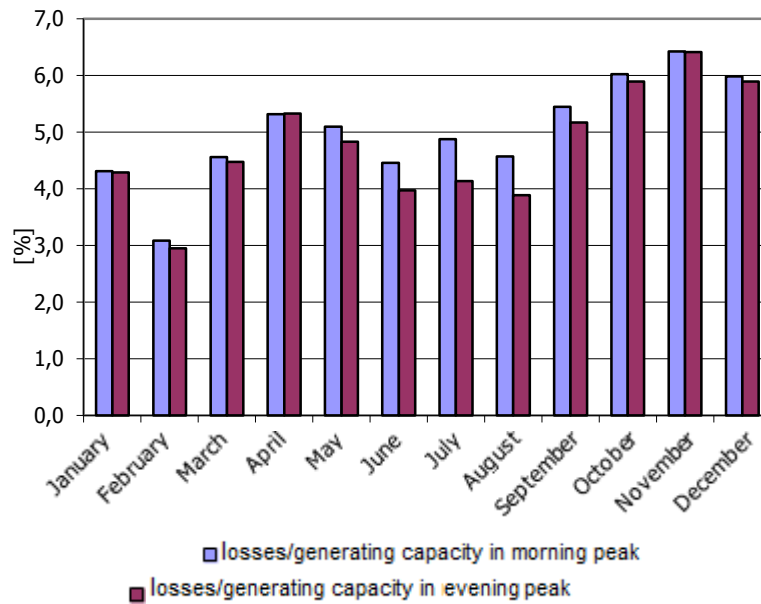
Figure 24. Utility power plants - comparison of selected aspects of operation in 2013 and 2014 (on the basis of average monthly values for evening peaks on working days)



Source: ERO, on the basis of data provided by PSE S.A.

Capacity losses in morning and evening peaks were similar (the biggest difference: 0,7% was recorded in July and August). The highest capacity losses, in comparison to domestic capacity demand on working days, appeared in the morning and evening peaks in November 2014, and amounted to 6,4%.

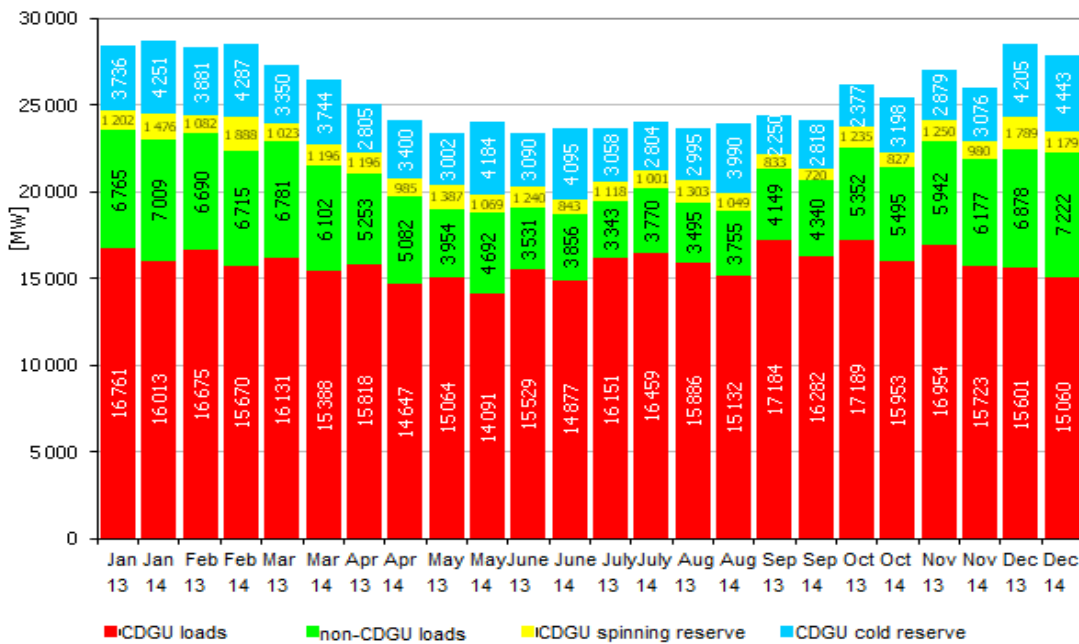
Figure 25. Capacity losses related to generating capacity in the morning and evening peaks on working days in the subsequent months of 2014



Source: ERO, on the basis of data provided by PSE S.A.

The figure below presents available capacity and capacity reserves in domestic power plants in 2013 and 2014. On the basis of these data it can be stated that average annual loads of CDGU decreased by about 5% in comparison to 2013, whereas loads of non-CDGU increased by about 3,4% compared to the preceding year. When comparing average annual levels of spinning and cold reserves in CDGU with loads of CDGU, it should be noted that in case of spinning reserve the share (calculated as the ratio of reserve to loads) did not change significantly: it decreased from 7,5% in 2013 to 7,1% in 2014, whereas in case of cold reserve – increased from 19,4% to 23,9%.

Figure 26. Available capacity and capacity reserve of domestic power plants available to TSO in 2014 in comparison to 2013 – average monthly values for daily peak demand in the country



Source: ERO, on the basis of data provided by PSE S.A.

3.3.2. Monitoring investments in generation capacities

The security of electricity supply is a complex issue, covering both short- and long-term actions. The process of monitoring of this security conducted by the President of ERO comprises collecting and analysing information within activities, which include inter alia:

- 1) collecting and analysing information about day-to-day electricity system operation,
- 2) collecting and analysing information about condition of network infrastructure and investment needs of the TSO and DSOs within the process of agreeing development plans of network undertakings.

In the course of the monitoring, a particular attention was paid to capability of covering current demand for electricity and power, operational security of electricity system, as well as availability of facilities, including generation units. Similarly to 2013, installed capacity remained at a relatively high level, exceeding 38 GW, although in 2014 it slightly decreased by about 0,7%, whereas the generating capacities increased by about 1%.

When referring to available capacity and capacity reserves in NES it should be stated that in 2014 they were on sufficient level from the point of view of current security of NES functioning. The available capacity of national power plants (calculated on the basis of evening peaks on working days) slightly decreased by about 1%, whereas maximum capacity demand in 2014 was a bit higher than in 2013 (by about 3,1%). At the same time it should be mentioned that the Energy Law Act imposes on energy companies involved in electricity generation in units of total installed capacity not lower than 50 MW, an obligation to report to the President of ERO about investment plans for the next 15 years, as well as to update these plans every three years. In this way, the scope of monitoring of the security of electricity supply covers also long-term time horizon.

The year 2014 was the first year when modified rules for calculation and settlement of capacity reserves were introduced with the aim of developing support mechanism for the maintenance of adequate capacity surplus – the relevant solutions were included in the TNC update sheet, prepared by PSE S.A. and approved by the President of ERO in 2013.

Investment projects related to cross-border infrastructure, included in the development plan of PSE S.A. in terms of covering current and future electricity demand for 2010-2025, with respect to 2014-2018

Construction of 400 kV Narew – Łomża – Ostrołęka line
Extension of 220/110 kV Ostrołęka substation with 400kV switching station
Construction of double-circuit line 400 kV Ełk – Łomża
Extension of 220/110 kV Ełk substation with 400 kV switching station
Construction of 400 kV Siedlce Ujrzanów – Miłosna line
Extension of 400/110 kV Siedlce Ujrzanów substation – I stage
Extension of 400 kV switching station in 400/110 kV Narew substation
Construction of 400 kV Płock – Olsztyn Mątki line
Extension of 400/110 kV Olsztyn Mątki substation
Extension of 400/110 kV Płock substation
Construction of Łomża 400 kV substation
Construction of double-circuit 400 kV Ostrołęka – Stanisławów line, with a partial use of existing 220 kV Ostrołęka – Miłosna line
Construction of 400 kV or 400/110 kV Stanisławów substation
Construction of single-circuit 400 kV Kozienice – Siedlce Ujrzanów line
Construction of Ełk – Polish border line
Installation of phase shifters on Krajnik – Vierraden line
Installation of phase shifters on Mikułowa – Hagenwerder line
Modernisation and extension of 400/220 kV Krajnik substation
Upgrade of 400/220/110 kV Kozienice substation
Modernisation and extension of 400/220/110 kV Mikułowa substation

The list of investment projects aimed at construction and extension of cross-border interconnections is included in the Ten Year Network Development Plan, developed in 2014 (TYNDP 2014).

Operational security of electricity system

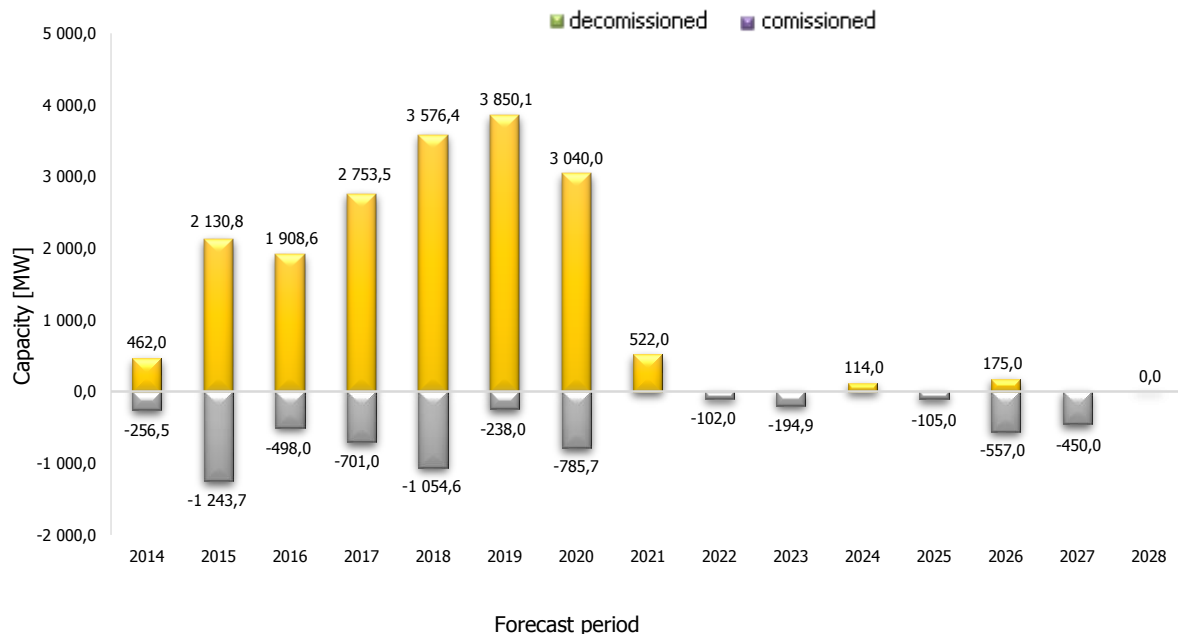
In 2014, within its duties stipulated in the Energy Law Act, the President of ERO conducted a survey, basing on the investment plans of electricity generators who are obliged to develop electricity forecasts for the next 15 years, pursuant to Article 16, paragraphs 20 and 21 of the Energy Law Act. In order to streamline and standardise the fulfilment of the aforesaid obligation, the President of ERO prepared a survey dedicated to energy undertakings involved in electricity generation.

On 21 March 2014 the President of ERO published *Information on forecasts of energy companies involved in electricity generation prepared for next 15 years, as referred to in Article 16, paragraph 20 and 21 of the Energy Law Act*. Due to the fact that only 34 entities fulfilled the aforesaid obligation within the statutory deadline, i.e. by 30 April 2014, the President of ERO sent relevant summons to other 15 energy companies. Regardless of the obligation arising from the above-mentioned regulations, the President of ERO asked four energy groups which occurred as a result of consolidation process connected with the governmental "Programme for Energy Sector", about planned investments in generation capacities, in the scope covered by the survey. Moreover, the President of ERO received information about grid connection conditions issued by the transmission system operator for electricity – PSE S.A. Collected information was analysed with the aim of verifying the capabilities to cover future peak capacity demand in the period from 2014 to 2028.

On the basis of collected information, the range of planned investments in generation capacity was examined, including investments with an advanced stage of implementation. Conducted analysis took into account also the planned decommissioning of existing generation capacities and allowed to determine the structure of planned investments by the type of primary fuel.

The analysis of collected data indicates that in the years 2014-2028 the energy undertakings are planning to commission in total over 18 GW of generating capacities, of which 10,5 GW were pointed out in the questionnaires submitted by the surveyed energy companies (other investments result from grid connection conditions issued by the transmission system operator and concern mainly wind generation). The amount of generating capacities planned for decommissioning in this period is about 5,2 GW. The situation is presented in figure 27.

Figure 27. Generators' investment plans for 2014-2028 (commissioned and decommissioned generation capacities)



Source: ERO, on the basis of information from the survey and data provided by PSE S.A.

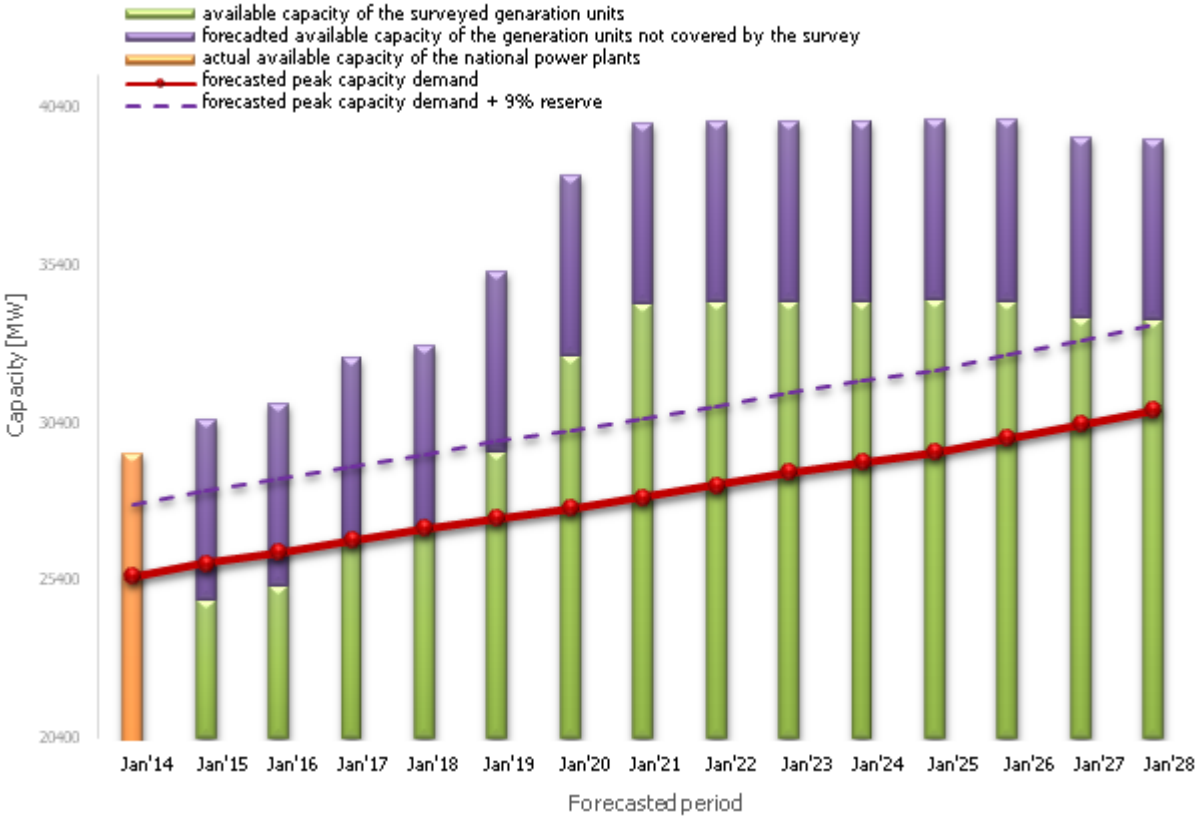
The biggest share in new investments is held by wind farms and generating units fired by hard coal and natural gas. In case of investments with an advanced stage of completion almost 2/3 are investments

in hard coal-fired units. It is worth noting that the surveyed energy undertakings did not show in their forecasts the nuclear energy and offshore wind farms.

Having in mind the main goal of the conducted survey, i.e. the assessment of capability of long-term balancing of electricity supply with demand for this energy, the President of ERO recognised that the significant criterion for such an assessment is not only the capability to cover electricity demand, but first and foremost the capability to cover capacity demand. Therefore, the President of ERO obtained from PSE S.A. information on annual forecasts of electricity demand and data concerning monthly forecasts of peak capacity demand for 2014-2028.

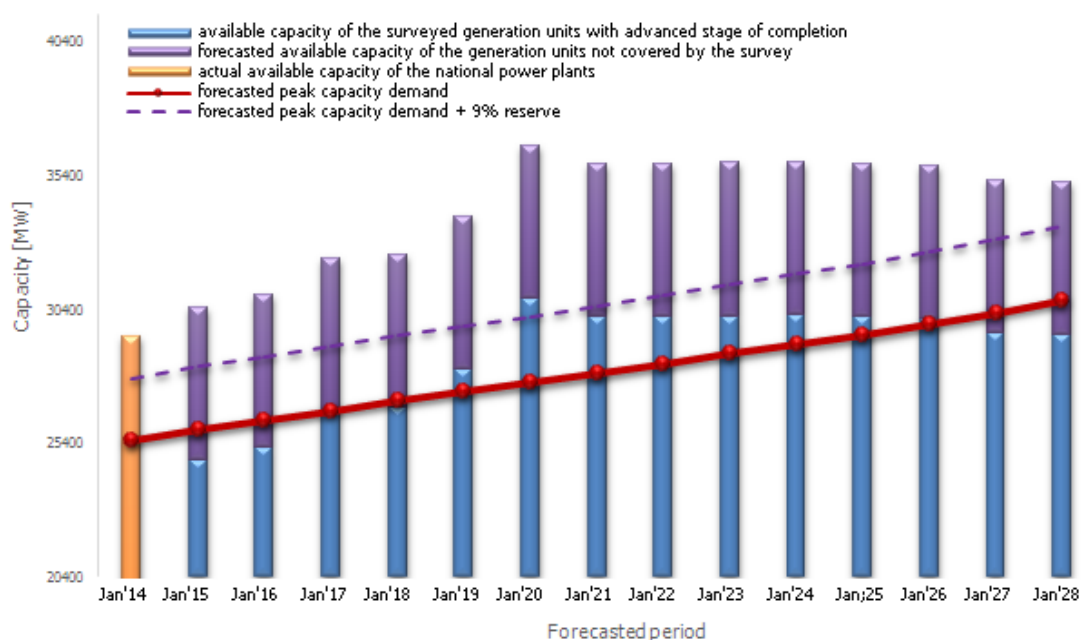
The results of the analysis showed that possible shortage of available capacity in relation to peak capacity demand may occur mainly in the winter months. In particular, the biggest shortage of available capacity may occur in the period between 2014 and 2017. However, this shortage should be covered by the available capacities of other domestic power plants, not included in this survey. While assessing the capability of covering peak capacity demand by the surveyed generating units, it should be noted that the available capacities of these units do not comprise generating units owned by energy companies not included in the survey, contracts on reduction of electricity consumption ("negawatts") and possibility to import capacity from abroad. Figure 28 shows available capacity of the surveyed generating units against the forecasted peak capacity demand in January in the years 2014-2028, i.e. in the month when the maximum capacity demand occurs.

Figure 28. Available capacity of all surveyed generation units as well as other domestic power plants (not included in the survey) in relation to forecasted peak demand for capacity in January in the years 2014-2028



Source: ERO, on the basis of information from the survey and data provided by PSE S.A.

Figure 29. Available capacity of significantly advanced surveyed generation units as well as other domestic power plants (not covered by the survey) in relation to the forecasted peak capacity demand in January in 2014–2028



Source: ERO, on the basis of information from the survey and data provided by PSE S.A.

While comparing all generation capacities included in the investment plans with generation capacities with advanced stage of completion, the capability to cover peak capacity demand in 2014-2028 does not change significantly. However, when analysing investments with advanced stage of completion, one can observe the decline of available capacity of the surveyed generating units as of January 2021. Hence, if the surveyed energy undertakings planning to construct new generation capacities (which stage of completion is not advanced at this moment) abandon their construction plans, then, in particular in 2027-2028, we will again face the shortfall of available capacity in relation to demand. Figure 29 presents the available capacity of the surveyed generating units with significantly advanced stage of completion against the forecasted peak capacity demand in January of 2014-2028, i.e. in the month when the maximal capacity demand occurs.

In comparison to the survey conducted by the President of ERO in 2011, the drop of forecasted peak capacity demand took place and the capability of long-term balancing of electricity generation with demand improved. This was caused, among other things, by a lower forecasted peak capacity demand as well as introduction of a new system service by transmission system operator, that is interventional cold reserve, as well as modification of operational power reserve service. Table 5 shows information on peak capacity demand in 2014-2025, obtained from the transmission system operator for surveys conducted in 2011 and 2014.

Table 5. Forecasted peak capacity demand - surveys conducted in 2011 and 2014

Year	Peak capacity demand [MW]		
	Survey conducted in 2011	Survey conducted in 2014	difference
2014	27 906	25 522	2 384
2015	28 360	25 921	2 439
2016	28 360	26 263	2 097
2017	28 899	26 631	2 267
2018	30 007	27 001	3 006
2019	30 578	27 350	3 227
2020	31 159	27 661	3 497
2021	32 062	28 005	4 057
2022	32 992	28 380	4 612
2023	33 949	28 773	5 176
2024	34 933	29 112	5 821
2025	35 946	29 437	6 509

Source: ERO, on the basis of data provide by PSE S.A.

3.3.3. Measures to cover peak demand and electricity shortfalls of one or more suppliers

The President of ERO is responsible for announcing, organizing and conducting tenders for construction of new generation capacities or implementation of initiatives aimed at reducing electricity consumption. It should be underlined that such actions may be undertaken in case of possible long-term threat to security of electricity supply, after acknowledging by the minister in charge of economy on the basis of the report prepared and submitted to the European Commission every two years, that the existing generation capacities and those under construction, as well as initiatives aimed at reducing electricity consumption, do not ensure long-term security of electricity supply. Before announcing a tender, the President of ERO consults, with the minister in charge of public finance and with other competent public bodies, the type of economic and financial instruments enabling construction of new generation capacities or implementation of initiatives aimed at reducing electricity consumption under preferential conditions. The President of ERO concludes an agreement with a tender winner setting out, in particular, responsibilities of tender winner, type of financial and economic instruments as well as the rules for settling financial support arising from those instruments. Detailed requirements concerning the contents of tender documentation as well as terms and conditions of organizing and conducting a tender are determined by the minister in charge of economy through a regulation.

So far, there have been no circumstances justifying announcement of the above-mentioned tenders. The volume of transmission capacity increase results from the information provided by PSE S.A. to the EC within the selection process of PCI projects.

Other measures aimed at covering peak demand and dealing with incidents of shortage of supply from one or more electricity suppliers are determined by the minister in charge of economy as the authority responsible for supervision over security of supply in gaseous fuels and electricity, as well as over functioning of the national electricity systems in the scope provided in the Energy Law Act. In particular, these actions are stipulated in the energy policy, drafted by the minister in charge of economy. Currently "Energy Policy of Poland until 2030", adopted by the resolution of the Council of Ministers on 10 November 2009, is binding.

4. GAS MARKET

4.1. Network regulation

4.1.1. Unbundling

TSO

In 2014 there was only one transmission system operator (TSO) on the territory of the Republic of Poland – OGP Gaz-System S.A. The company has performed the function of gas transmission system operator on its own network since 2006, on the basis of the decision of the President of ERO. OGP Gaz-System S.A. is a company wholly owned by the State Treasury and the owner of transmission assets on which it has been carrying out business activity in the scope of gaseous fuels transmission, under the licence issued by the President of ERO. As a result of the amendment to the Energy Law Act introduced in 2013, the ownership supervision over the company is performed by the Minister of Economy.

Since 17 November 2010, OGP Gaz-System S.A., pursuant to the decision of the President of ERO, has also operated as the TSO on the Polish section of the Yamal-Western Europe pipeline, owned by EuRoPol Gaz SA that holds a licence for the transmission of gaseous fuels.

The provisions of Directive 2009/73/EC that refer to obtaining certification of independence by the transmission system operators and combined system operators, were transposed into the Polish law order by the Amending Act. The Amending Act came into force on 11 September 2013 and thereby implementation process of the gas directive was completed.

The certification procedure of transmission system operators, including a separate certification procedure for transmission system operators in reference to entities controlled by an entity with its registered office in third country, have been regulated in the provisions of Articles 9h¹ and 9h² of the Energy Law Act, which were added by the Amending Act. Pursuant to the provisions, only the entity that received a decision granting certification of independence from the President of ERO can be designated as the transmission system operator. Prior to granting the certification of independence, the President of ERO is obliged to conduct examination proceeding to check whether the candidate for the operator or the operator fulfils the criteria ensuring its full independence. At the same time the legislator adopted a solution stating that decisions on the appointment of the transmission system operator issued prior to the entry into force of the Amending Act remain in force.

Two models of transmission system operators' functioning were implemented into the Act: ownership unbundling (OU) and independent system operator (ISO). Under the OU model the entity, which acts as the transmission system operator, is at the same time its owner and remains fully independent from any activity in the field of production or trade in gaseous fuels or electricity. Under ISO model transmission system may remain property of the vertically integrated undertaking, but it has to be managed by a separate undertaking, i.e. independent system operator. At the same time ISO model may be applied to designate transmission system operator only if the owner of transmission system was a part of vertically integrated undertaking on 3 September 2009. However, in case of providing transmission services with the use of gas interconnector constituting new infrastructure, i.e. the construction of which was not completed until 4 August 2003 or was started after that date, the provisions specify a procedure of exempting from the obligation of meeting the independence criteria and issuing consent to entrusting the performance of the transmission system operator's tasks.

In addition, the European Commission participates in the certification procedure. Pursuant to the provisions, prior to issuing the decision granting the certification of independence the President of ERO is obliged to take position on the case – in a form of draft decision – and submit it to the European Commission along with a request for providing an opinion on meeting the conditions and criteria of independence. In addition, when the procedure indicated in Article 9h² of the Energy Law Act applies, request to the European Commission shall concern also the influence of granting the certification of independence on the security of supply of gaseous fuels or electricity within the European Union.

In accordance with the interim provision stipulated in Article 14, paragraph 1 of the Amending Act, an owner of the transmission network or an energy undertaking referred to in Article 9h¹, paragraph 2, point 1 of the Energy Law Act were obliged to apply for a certification of independence within six months from the date of entry into force of the Amending Act, i.e. until 11 March 2014.

In reference to OGP Gaz-System S.A., in the scope of operatorship on its own networks the ownership unbundling (OU) model shall apply, whereas with regard to networks that do not constitute a property of OGP Gaz-System S.A., i.e. the Polish section of the Yamal pipeline – the independent system operator (ISO) model.

In 2014 the President of ERO received two applications for granting the certification of independence, submitted by OGP Gaz-System S.A. The first application, submitted in January 2014, concerned granting certification in the OU model and referred to network owned by this company. The second application of OGP Gaz-System S.A. was received by ERO in March 2014 and concerned certification in the ISO model in reference to the TSO function performed by this company on the Polish section of Yamal pipeline owned by SGT EuRoPol GAZ S.A.

In case of certification in the OU model, on 25 July 2014 the European Commission issued a positive opinion on the certification of OGP OGP Gaz-System S.A. On the basis of information and documents collected in the course of proceeding and considering the opinion of the European Commission, the President of ERO ascertained that:

- the application of Gaz-System S.A. for granting the certification of independence met formal requirements, including that it was submitted by the owner of the gas transmission network who holds a licence for carrying out business activity with the use of this network,
- the application was submitted within the deadline determined in the law,
- OGP Gaz-System S.A. remains independent with respect to its legal and organisational form and its decision-making process from running other activities not related to transmission of gaseous fuels,
- OGP Gaz-System S.A. fulfils independence requirements, referred to in Article 9d, paragraph 1a in relation to Article 9d, paragraphs 1b and 1c of the Energy Law Act.

Taking the aforesaid into account, on 22 September 2014 the President of ERO granted OGP Gaz-System S.A. the certification of independence in reference to performing the TSO function by this

company on its own networks. It was the first certificate of independence granted to the gas TSO. The decision in the above-mentioned case along with the opinion of the European Commission was announced in the Bulletin of ERO.

In the second certification proceeding, concerning operatorship on the Polish section of the Yamal pipeline, the European Commission issued the opinion on 9 September 2014. The Commission took a position that prior to granting the certification ERO shall conduct a detailed examination pursuant to Article 11 of Directive 2009/73/EC and then notify the EC the amended draft decision containing such assessment. In its opinion the EC pointed out, i.a. that "Article 11 of Gas Directive determines that when certification is requested by a transmission system owner or TSO that is controlled by a person or persons from a third country or third countries, the regulatory authority shall refuse certification if it has not been demonstrated that the entity concerned complies with applicable unbundling requirements (Article 11 (3) (a))". Basing on the above the EC took the view that "a comprehensive assessment under Article 11 has to be carried out by ERO before granting certification".

The President of ERO noticed that the above-mentioned opinion of 9 September 2014 was relied upon the provision of Article 11 (1) paragraph 1 of Directive 2009/73/EC, which shall not apply in case in question due to the existing factual status. It results from the fact that in the said proceeding for granting certification of independence, certification was requested neither by transmission system owner controlled by an entity from a third country, nor transmission system operator controlled by such entity. Granting certification of independence was requested by a transmission system operator wholly owned by the State Treasury. Thereby neither of the situations referred to in Article 11 (1) first sentence of Directive 2009/73/EC is the case in the administrative proceeding in question.

The potential need for applying the procedure determined in Article 11 of Directive 2009/73/EC may only be considered in the context of exerting a decisive influence on the transmission system by a third country entity, which is a condition referred to in the provision of Article 11 (1) second sentence of Directive 2009/73/EC. However, it was not addressed in the EC's opinion of 9 September 2014. The analysis taking such circumstance into account was included in the draft decision.

Notwithstanding the foregoing, the President of ERO took into account the above-mentioned recommendation to complement the decision and requested the Minister of Foreign Affairs to issue an opinion referred to in Article 9h², paragraph 2 of the Energy Law Act. The above-mentioned certification proceeding has not been completed in 2014 and was continued in 2015.

Unbundling rules determined in the Energy Law Act

The Amending Act introduced new rules for the functioning of both transmission system operators (TSOs), distribution system operators (DSOs), storage system operator (SSO) as well as entities providing services of transmission, distribution, storage of gaseous fuels, natural gas liquefaction or regasification of liquefied natural gas. Some of these changes came into force only in 2014.

Among them one should in particular mention the introduction, pursuant to Article 1, point 2 of the Amending Act, of the provision of Article 4e¹ of the Energy Law Act. Under this provision, "services of transmission, distribution and storage of gaseous fuels, natural gas liquefaction or regasification of liquefied natural gas may be provided only by transmission system operator, distribution system operator, operator of storage system of gaseous fuels, operator of gas liquefaction system or combined system operator, respectively".

The above-mentioned provision came into force on 28 August 2014, i.e. after 12 months from the announcement date of the Amending Act (Article 34, point 1). Since that day, the undertaking holding an appropriate license has not been allowed to perform economic activity in the field of transmission, distribution, storage of gaseous fuels and liquefaction of natural gas or regasification of liquefied natural gas, if it does not hold the status of system operator.

Failure to comply with this provision is sanctioned with a financial penalty. In accordance with Article 56, paragraph 1, point 24a of the Energy Law Act, a financial penalty shall be imposed on anybody who provides services of transmission, distribution and storage of gaseous fuels, natural gas liquefaction or regasification of liquefied natural without being appointed, pursuant to Article 9h, as the operator of transmission system, distribution system, storage system of gaseous fuels or natural gas liquefaction system operator, or combined system operator.

The Amending Act set up new TSO and DSO unbundling rules, aimed at ensuring the effective unbundling of transmission and distribution activities from the activities associated with the extraction

or sale of natural gas. In addition, it introduced a requirement for legal and functional separation of SSO.

It was also indicated in the Amending Act that TSO, DSO and SSO are required to comply with the independence criteria referred to in the amended Article 9d of the Energy Law Act within 6 months from the date of entry into force of this Act, i.e. until 11 March 2014.

Failure to comply with the unbundling requirements is sanctioned with a financial penalty. In the light of Article 56, paragraph 2, points 20 and 21 of the Energy Law Act, a financial penalty shall be imposed on anybody who does not respect the conditions and criteria of independence of the system operator, referred to in Article 9d, paragraph 1-2, and on anybody who does not provide the operator designated for its network with conditions and criteria of independence, referred to in Article 9d, paragraph 1-2. The financial penalty in the above cases cannot be lower than 1% and higher than 15% of the revenue of the punished entrepreneur, gained in the preceding tax year. Such penalties are imposed by the President of ERO. Regardless of the above-mentioned financial penalty, the President of ERO may impose a financial penalty on the manager of energy company in an amount not higher than 300% of this manager's monthly salary.

The scope of activity that may be carried out by the gas transmission system operator is determined in Article 9d, paragraph 1 of the Energy Law Act, pursuant to which transmission system operator and combined system operator are, in terms of their legal and organisational form and the decision making process, independent from other activity not related to:

- 1) transmission, distribution or storage of gaseous fuels, or natural gas liquefaction or regasification of liquefied natural gas in facilities for liquefied natural gas, or
- 2) transmission or distribution of electricity.

In addition, pursuant to Article 9d, paragraph 1a of the above-mentioned Act, in order to ensure independence of transmission system operator or combined system operator the same person or entity cannot:

- 1) directly or indirectly exercise decisive influence on or exercise other rights over a company involved in production, generation or supply of gaseous fuels or generation or supply of electricity, as well as directly or indirectly exercise a decisive influence on or exercise other rights over a transmission system operator or combined system operator, and exercise decisive influence on the transmission system or combined system,
- 2) appoint members of the supervisory board, the management board or other bodies legally representing the transmission system operator or combined system operator, or towards transmission system or combined system, as well as directly or indirectly exercise decisive influence on or exercise other rights over a company involved in production, generation or supply of gaseous fuels or generation or supply of electricity,
- 3) be a member of the supervisory board, the management board or other bodies legally representing the transmission system operator or combined system operator, or towards a transmission system or a combined system, as well as perform any of these functions in a company involved in production, generation or supply of gaseous fuels or generation or supply of electricity.

In the course of proceeding for granting the certification of compliance with independence criteria the President of ERO conducts an analysis and establishes whether the TSO meets the conditions and criteria of independence. As it was indicated before, the President of ERO granted Gaz-System S.A. the certification of independence and thereby confirmed that the company meets all the above-mentioned independence criteria.

The Act regulates also the scope of independence of the gas distribution system operator. According to Article 9d, paragraph 1d of this Act, DSO, which is in the structure of vertically integrated undertaking remains in its legal and organisational form as well as decision-making, independent from other activities not related to distribution of gaseous fuels or electricity. Moreover, in order to ensure the independence of the distribution system operator following criteria of independence must be met:

- 1) the persons responsible for the management of the distribution system operator may neither participate in the management structures of the vertically integrated undertaking or energy undertaking engaged in transmission, extraction, production or trade in gaseous fuels or transmission, generation or trade in electricity nor be responsible, directly or indirectly, for the current activity in this area,
- 2) the persons responsible for the management of distribution system operator are provided with the possibility to act independently,

- 3) the distribution system operator shall have the right to make independent decisions as regards the assets necessary to pursue economic activity in the distribution of gaseous fuels or electricity,
- 4) the body of the vertically integrated undertaking may neither give the distribution system operator instructions regarding its ongoing activities nor make decisions in the scope of network construction or upgrade, unless these instructions or decisions concern the activities of the distribution system operator, which would go beyond the approved financial plan or other equally-important document (Article 9d, paragraph 1e of the above-mentioned Act).

The Energy Law Act contains also the provisions concerning the independence of the storage system operator (SSO). In accordance with Article 9d, paragraph 1f of this Act the SSO, which is part of vertically integrated undertaking, shall remain independent in terms of its legal and organisational form and decision-making from other activities not related to storage, transmission or distribution of gaseous fuels. In addition, pursuant to Article 9d, paragraph 1g of the above-mentioned Act, in order to ensure the independence of storage system operator the following cumulative criteria must be met:

- 1) the persons responsible for the management of storage system operator may neither participate in the structures of vertically integrated undertaking or energy undertaking engaged in extraction, production or trade in gaseous fuels nor be responsible, directly or indirectly, for the current activity in this area,
- 2) the persons responsible for the management of the storage system operator are provided with the possibility to act independently,
- 3) the storage system operator shall have the right to make independent decisions as regards the assets necessary to pursue economic activity in the scope of storage of gaseous fuels,
- 4) the body of the vertically integrated undertaking may neither give the storage system operator instructions regarding its ongoing activities nor make decisions in the scope of storage installation construction or upgrade, unless these instructions or decisions concern the activities of the storage system operator, which would go beyond the approved financial plan or other equivalent document.

Distribution System Operators

As of 31 December 2014, 50 system operators appointed by the decisions of the President of ERO were carrying out business activity in the scope of distribution of gaseous fuels, including one legally separated.

The one above-mentioned DSO being subject to the unbundling obligation is Polska Spółka Gazownictwa Sp. z o.o., owned by PGNiG S.A. Capital Group. The company is carrying out economic activity consisting in distribution of gaseous fuels through distribution networks of low, medium and high pressure for the needs of customers located in the territory of the Republic of Poland. In addition, 49 energy undertakings performed DSO functions at the local level.

Storage System Operator

In 2014 the function of storage system operator was carried out by Operator Systemu Magazynowania Sp. z o.o. (hereinafter: "OSM Sp. z o.o."), appointed SSO on the basis of the decision of the President of ERO until 31 May 2022. The company performs its function on the assets owned by PGNiG S.A. As of 31 December 2014 OSM Sp. z o.o. carried out its tasks as regards the following storage installations: UCGS Mogilno, UGS Husów, UGS Wierzchowice, USG Strachocina, UGS Swarzów, UGS Brzeźnica and UCGS Kosakowo.

Natural Gas Liquefaction System Operator

As of 31 December 2014 there were two natural gas liquefaction system operators: Polska Spółka Gazownictwa Sp. z o.o. and DUON Dystrybucja S.A. These entities performed also DSO's functions.

Compliance Programmes

Legal basis for the development of Compliance Programmes, as well as the guidelines regarding the content of submitted execution reports were described in chapter 3.1.1. It shall be mentioned that hitherto obligation to develop them by the transmission system operators was removed, because the ownership unbundling occurring in case of TSO (OGP Gaz-System S.A. is a company that is not a part of vertically integrated undertaking, and is in 100% owned by the State Treasury) in practice turned out to be sufficient to ensure non-discriminatory treatment of system users.

However, the legislator introduced an obligation to develop Compliance Programmes by the storage system operators being part of vertically integrated undertaking. Therefore OSM Sp. z o.o. falls under this obligation, which is a company in 100% dependent from PGNiG SA. In 2014 the President of ERO approved OSM's Compliance Programme. OSM Sp. z o.o. is at the same time obliged to submit a report from the execution of Compliance Programme to the President of ERO every year, starting with the report for 2014.

Obligation to submit Compliance Programme for approval, as well as to submit reports from its execution, lies also with PSG Sp. z o.o., which is the DSO being a part of PGNiG S.A. Capital Group.

In 2014 no cases of infringement of the principle of equal and non-discriminatory treatment of the distribution system users were detected in both DSO and SSO. There were also no complaints received regarding the application of Compliance Program provisions, or any notification of the suspicion of conflict of interest.

When analyzing the execution reports of the Compliance Programmes submitted by the operators it can be stated that due to the nature of the position and responsibilities, the position of Compliance Officer should be guaranteed independence and be separated from other positions in the company. It would allow for a greater commitment to follow the Compliance Programmes and would be a good practice for the operators. In practice, in PSG Sp. z o.o. the Compliance Officer reports directly to the board and its function cannot be combined with other positions in the DSO. In case of OSM Sp. z o.o. the function of Compliance Officer is combined with a managerial position in the Regulatory and Legal Service Unit. Undoubtedly, knowledge and experience of the person occupying a managerial position is useful for active monitoring of the Compliance Programme implementation, but the practice of combining the Compliance Officer position with another function performed in the company poses a risk of violating its independence and lack of time for proper monitoring of compliance with the provisions of the Compliance Program.

Within its duties, Compliance Officer should not only react ex post, i.e. when a breach of the Compliance Program provisions occurs, but also carry out preventive measures, i.e. by initiating inspection of implementation of the above-mentioned provisions. The report submitted by the DSO states that the Compliance Officer developed and executed control program to check compliance with the Compliance Program in local organisational units of the company. Monitoring was held from 1 July to 31 December 2014 and covered areas related to customer service, including connection service, distribution service, supplier switching, complaints handling, metering and telemetry as well as network traffic management, as in these areas, due to the contact with external customer, the potential risk of irregularity was rated as the highest.

According to the information obtained from the OSM Sp. z o.o. the control of compliance with the provisions of the Compliance Program will take place in 2015, along with the implementation of the system for protection of sensitive information.

The submitted reports show that Officers trained all employees of the operators to strictly comply with the provisions of the Programmes.

In PSG Sp. z o.o. protection of sensitive information was implemented in the company in administration, IT and physical security areas. In 2014 integration of regulations and systems for the protection of sensitive data was continued.

In 2014 in PSG Sp. z o.o. personal data protection policy was supplemented by local regulations of individual branches, to the extent not covered by the central regulation. Work is currently underway on adopting the target policy for personal data protection that would take into account the novelisation of the Act on Personal Data Protection, as well as a change in the organisational structure in the sector of security and protection of information. In relation to security instructions concerning commercially sensitive information it should be noted that Compliance Officer acquired competence to qualify specific information as sensitive commercial information. In 2014 OSM Sp. z o.o. introduced "Safety rules for ICT area users", which define the terms and conditions for the production, processing, storage and transmission of information in IT systems and networks used in the company. In addition, it was decided

to implement Information Security Management System based on ISO/IEC 27001 standard. It is planned to pursue the implementation of the system in 2015.

4.1.2. Technical functioning

Balancing services

According to the national law, gas system balancing is performed by the TSO as part of the provided gas transmission services. TSO carries out balancing in both the transmission system and distribution systems connected to it on the basis of daily settlements. Daily tolerance for imbalance at the level of 5% of the amount of gaseous fuel delivered by the shipper for transmission at the entry points to the transmission system in a given gas day is applied. Fee for imbalance is determined based on weighted average price determined on the basis of costs of fuel purchase by the TSO in a given gas day (Gas Reference Price – GRP). In case of exceeding of the tolerance level the price is increased by 20%. TSO publishes and updates GRP on its website on a regular basis. Information on the estimated imbalance value are transferred to particular shippers by the TSO individually, with the use of Information Exchange System (IES) for the first 6 hours of a given gas day (until 18.00 on a given gas day) and for a given gas day within 6 hours after the end of the gas day. Clearing data is transferred until 26th day of the month following the month to which the settlement applies. The operator shall publish on its website data on cumulative imbalance for all users at the beginning of each balancing period and the forecasted total imbalance for all users at the end of each gas day. In addition, TSO publishes on its website standardised publications complying with the requirements of Regulation 715/2009, including i.a. information on balancing procedures, requirements and principles, as well as actions taken in order to balance the system, and costs incurred in connection with it (in particular costs and generated revenues). All the above information is published both in Polish and in English language versions.

In January 2014 TSO launched Balancing Services Market (RUB). Within RUB entities that join the market may submit to the Operator offers for system services, such as delivery or off-take of gas in a virtual entry/exit point and in a specific physical entry/exit point, as well as service to reduce gas supplies at an entry point (and off-take of this amount of gaseous fuel from the TSO at the virtual entry point). In 2014 system services provided by the TSO through RUB had a total purchase volume of 122,4 MWh. Moreover, in 2014 TSO undertook balancing activities on POLPX and on the EEX (European Energy Exchange) with a total purchase volume of 718 895,00 MWh.

On 16 April 2014 the Commission Regulation (EU) No. 312/2014 of 26 March 2014 establishing a Network Code on Gas Balancing of Transmission Networks (BAL) came into force. This Regulation is applicable from 1 October 2014. The document allows operators to implement certain interim measures as regards balancing methods and related settlements in the absence of adequate liquidity of wholesale gas market for short-term transactions. In this case, the appropriate interim measures are developed and implemented by the TSO in accordance with a report consulted with market participants and approved by the national regulatory authority. On 16 October 2014 Gaz-System S.A. submitted a request for approval of the Report on interim measures planned for implementation by OGP Gaz-System S.A.

Security and reliability standards, quality of service and supply

The tasks of the President of ERO include monitoring of the gas system functioning, i.a. in the scope of the security of gas supply. This task has been formulated in a general way – a statutory provision which is the source of the obligation in question does not mention specific actions, as it is in case of Article 5 of Directive 2009/73/EC.

In terms of security and reliability of supply, the President of ERO shall review the way of carrying out, by the gas system operators, of their statutory duties and evaluate their performance in terms of ensuring the correct operation of the system, in accordance with the criteria set out in the Network Code. The inspection takes place also within the analysis of the reports on the execution of the development plans, including monitoring of the projects aimed at ensuring the continuity of transmission and distribution services, while maintaining the required level of security and reliability, as well as

creating conditions for market development. Criteria relevant to the security of supply, taken into account in the analysis of investment projects, consider:

- adaptation of gas system to the new operating conditions resulting from the connection of new sources of gas and new customers,
- possibility to diversify the directions and routes of gas supply to Poland,
- reconstruction or modernisation of the existing gas infrastructure,
- adapting systems to binding standards, legal and technical regulations,
- elimination of the so-called bottlenecks in the networks.

Monitoring is based on the annual reports on the execution of development plans as regards meeting present and future demand for gaseous fuels, and comparing them with the agreed development plan as regards the list of investments and expenditures that the undertaking planned to bear and in a consequence borne, and quantitative data relating in particular to the number of customers and the amount of supplied gas – planned and executed. In addition, the state of network security can be evaluated on the basis of information on the age structure of assets, as well as the number of interruptions and breakdowns included in the above-mentioned reports. The findings of the aforesaid monitoring shall be taken into account in further regulatory activities of the President of ERO, in particular at the stage of agreeing development plans.

Moreover, controlling of the safety standards includes controlling if the relevant entities fulfil the obligation to maintain the obligatory natural gas reserves, as well as reporting by the operators on the applied limitations in gas supply.

Controlling the quality standards of customer service and quality parameters of gaseous fuels shall protect consumers from lowering, by the gas undertakings operating on the market, both the quality of delivered fuel (including i.a. its combustion heat), the standards of provided services (supply interruptions) and the customer service standards.

Quality parameters of gaseous fuels, as well as the quality standards of customer service, including the method of satisfying complaints, are regulated in the Regulation of the Minister of Economy of 2 July 2010 on specified conditions of gas system operation¹⁰⁾. According to the regulation, gaseous fuels supplied by the gas undertakings shall meet certain quality parameters. At the same time, the regulation imposes an obligation to perform tests of particular quality parameters on the TSO and DSO. Parameters for gaseous fuels are determined in Transmission Network Code and relevant Distribution Network Codes.

Controlling the quality of gaseous fuels is conducted at the customer request. Moreover, in case of objections as regards the quality of supplied gaseous fuels, customer may request examination of the measurement system operation in an independent testing laboratory accredited by a certification body, pursuant to the rules and procedures specified in the Act of 30 August 2002 on the compliance assessment system¹¹⁾. In case of irregularities, the energy undertaking shall cover the costs of tests, as well as shall adjust the settlement for the supplied gas at its own cost, under the terms and deadlines set out in the tariff.

The current practice shows that objections come mainly from household customers, and intervention of the President of ERO consists mainly in calling the TSO and DSO for submitting reports on the quality of natural gas (including average monthly combustion heat) in the part of gas network to which the installation of the complaining customer is connected. In some cases, also the results of analyses carried out by research institutes and scientific units were used, as the regulator neither has a laboratory, nor adequate equipment to conduct independent tests of the gaseous fuels quality.

Regulatory activities of the President of ERO in the scope of controlling the quality standards of customer service and quality parameters of gas are also reflected in the process of approving tariffs for gaseous fuels. The President of ERO approves prices and fee rates contained in the tariff only when they are calculated taking into account the quality parameters specified in the above-mentioned regulation on conditions of gas system operation. For failure to meet the quality parameters of gaseous fuels, referred to in the aforesaid regulation, customers are entitled to a discount determined according to the rules provided for in the tariff. In addition, the tariff provides for discounts in charges for the gas supply due to the breach of quality standards of customer service. The method for discount calculation is determined in the provisions of the regulation on tariff calculation for gaseous fuels, and its level shall be determined in the tariffs approved by the President of ERO.

¹⁰⁾ Journal of Laws of 2014, item 1059.

¹¹⁾ Journal of Laws of 2002 No. 204, item 2087, as amended.

Customers usually do not know their rights when complaining to the Regulator on the activities of gas undertakings. In such cases, they are provided with explanations and information about rights and responsibilities, according to current legal status.

Control in the scope of safety and reliability standards of supply and quality standards was, in case of TSO, conducted also through analysis of its quarterly reports on discounts for failure to meet quality standards of gaseous fuels and restrictions to the supply, introduced due to the reasons attributable to the TSO.

Monitoring time to connect and repair

Monitoring the functioning of gas system in the scope of conditions for connecting entities to the network and its execution, as well repairs of these networks, is conducted by ERO on an ongoing basis and is carried out i.a. through verification and analysis of information from undertakings, their customers and other stakeholders. The information about interruptions and limitations in gas supply are presented in the table below.

Table 6. Information on interruptions and limitations to gas supplies in the transmission network in 2014

	Number	Interruptions and limitations			Volume of unsupplied fuel [million cubic metres]
		Duration [minutes]	Number of affected customers	Average time [minutes per customer]	
Downtimes	48	2 190	4	547,5	0,035
Ongoing scheduled works	7	748 650	n/a	9 722,0	n/a
Limitations	0	-	-	-	-

Source: ERO.

In 2014 Gaz-System S.A. recorded 48 breakdowns causing downtimes and limitations to gas supply during 2 190,00 minutes to four entities. Average downtime in gas supply during breakdown amounted to 547,5 minutes per customer and the amount of fuel that was not supplied to customers was equal 0,0035 mcm. The operator executed 77 scheduled works amounting to a total time of downtimes and limitations of 748 650,00 minutes and average downtime during the implemented scheduled works equal 9 722,00 minutes per customer. In comparison to 2013, Gaz-System S.A. significantly reduced the time of downtimes and limitations in gas supply resulting from breakdowns from 14 285,00 minutes to 2 190,00 minutes, despite the fact that the number of breakdowns increased (by two breakdowns) compared to the previous year. Moreover, in comparison to 2013 the amount of fuel unsupplied during breakdowns decreased significantly from 0,149 mcm to 0,035 mcm. Compared to 2013 the number of scheduled works was reduced from 139 to 77; also the downtimes and limitations in gas supply to customers caused by the scheduled works lasted shorter by 379 078,00 minutes.

The continued investment in new pipelines and modernisation of more important existing objects of the transmission system i.a. such as completion of the construction of a system implemented within strategic investments with respect to the liquefied natural gas off-take terminal in Świnoujście, completion of the construction of Polkowice-Żary pipeline for the transmission of high-nitrogen gas and construction of compressor station in the Rembielszczyzna node located in the area of Warsaw gas ring, shall serve as a remedy for the above situation. However, it should be borne in mind that elimination of system congestions is a long term activity and the works carried out in 2014 have not in principal changed the areas where congestions occur.

The level of the transmission network development translates also into problems with ensuring supplies to the customers applying for connection to the distribution networks in periods of increased demand for gas. This forces concluding the so-called interruptible supply contracts and refusing to connect to the network due to technical reasons. The network investment needs are also illustrated by the data on the average duration of interruptions in gas supplies per customer connected to the transmission network, which in 2014 amounted to 547,5 minutes per customer. It shall be noted however, that this time was significantly shorter than in 2013.

Table 7. Interruptions in gaseous fuels supply to customers connected to the transmission and distribution networks in 2014

Year	downtimes					
	breakdowns			scheduled works in progress		
	duration	number of affected customers	average time	duration	number of affected customers	average time
[minutes]	[number]	[minutes per customer]	[minutes]	[number]	[minutes per customer]	
2005	43 341 809,10	109 571	395,56	79 411 583,60	194 219	408,88
2006	89 518 594,80	123 361	725,66	76 721 978,40	153 386	500,19
2007	46 707 750,34	89 218	523,52	78 061 416,00	153 083	509,93
2008	110 416 057,40	104 108	1 060,62	131 395 059,60	130 673	1 005,53
2009	81 563 843,00	102 763	793,71	130 628 780,40	151 273	863,53
2010	27 236 695,80	117 616	231,60	55 470 326,40	162 637	341,07
2011	134 905 821,96	136 307	989,72	162 790 249,80	183 548	886,91
2012	102 370 430,40	91 931	1 113,56	159 639 406,18	166 928	956,34
2013	63 372 633,60	105 730	599,38	65 364 360,60	156 603	417,39
2014	19 894 108,80	97 022	205,05	53 612 689,20	126 884	422,23

Source: ERO.

In 2014 the President of ERO monitored time taken by the undertakings to connect to the gas network. Information on the connections to the networks of OGP Gaz-System S.A. and distribution system operators, who were subject to the unbundling obligation, completed in 2014 are presented in the table below.

Table 8. Information on the connections to the gas network completed in 2014

	No. of completed connections	No. of connections completed for full-charge	No. of connections completed after initial refusal
OGP Gaz-System SA	17	16	0
Distribution System Operators*	82 335	3	17

* Distribution system operators obliged to be legally unbundled.

Source: ERO.

Information presented in the table shows a high number of connections to the gas network, completed by DSOs and the TSO in 2014. At the same time, on the basis of information obtained during gas system monitoring carried out by ERO in reference to conditions for connecting entities to the network, the main reasons for missing the network connection deadline provided for in the agreements were identified, i.e. among others:

- difficulties with obtaining required administrative and legal decisions (i.e. difficulties with obtaining property owners' permits for localisation and construction of a pipeline/connector, often related with a necessity to obtain legal title to the estate on which gas network or installation was supposed to be built; time-consuming administrative or court proceedings related to determining utility easement),
- delays by customers in meeting the deadlines set in the network connection agreement,
- unfavourable weather conditions causing the delays in outdoor works.

The tasks imposed on the Regulator were also carried out through monitoring of fulfilment of the obligation to notify the President of ERO of every case of refusing connection to the gas network by network companies. In addition, the Regulator settles disputes regarding refusals to conclude connection agreement and considers complaints concerning the conditions for and execution of network connection, as well as conducting repairs of those networks. In 2014 ERO received notices from gas undertakings informing about issuing 5 917 refusals to connect to the gas network. Such cases are subject to the Regulator's monitoring.

Table 9. Number of gas network connection refusals

No.	Name of the undertaking	No. of refusals in 2014
1	OGP Gaz-System S.A.	1
2	DSO of PGNiG S.A. Capital Group	5 852
3	DSOs not covered by the unbundling obligation	64
TOTAL		5 917

Source: ERO.

Information presented in the above table shows one case of refusal to connect to transmission network and a high number of refusals to connect to the distribution network. It is connected with different technical conditions, including the localisation of the applicant (distance from the network or localisation in the area not covered by the development plan), and significantly higher number of consumers applying for connection to the distribution network than to the transmission network. Within monitoring of undertakings as regards fulfilling their obligation to notify the President of ERO of every case of refusing connection to the gas network, when indicating the main reasons for refusal, the undertakings pointed out to the lack of economic conditions and lack of technical conditions. However, the lack of technical conditions for executing the connection was related to the insufficient network capacity in the given area, the so-called bottlenecks, where the lack of transmission network development determines further development of distribution infrastructure and inability to connect new customers. The remedy for the present situation are therefore further investments in gas infrastructure (in accordance with the development plans agreed with the President of ERO), which should contribute to the development of systems for the transmission and distribution of natural gas in Poland, as well as influence the optimisation of their work and capacity extension, including supplying gas to new directions.

Monitoring access to storage, linepack and other ancillary services, monitoring correct application of criteria that determine model of access to storage

In 2014, Operator Systemu Magazynowania Sp. z o.o. was the entity carrying out the duties assigned to SSO. In 2014 the President of ERO did not receive any information indicating to infringing the fulfilment of any obligations provided for in the Energy Law Act, especially regarding services related to third party access (TPA rule), by the SSO.

Operator's functions were carried out by the SSO with the use of existing and new storage capacities resulting from ongoing construction of new storage installations (CUGS Kosakowo) and extension of existing storage installations (UGS Wierzchowice and UGS Strachocina), as well as CUGS Mogilno, UGS Husów, UGS Swarzędów and UGS Brzeźnica. Active storage capacity of all the storage installations in 2014 amounted to 2 524,09 mcm. SSO makes storage capacities available to the market participants according to the binding rules and standardised procedures set out in the Storage Service Rules (SSR). Within its trade activity in 2014, SSO provided to third parties under long-term contracts additional 724 mcm of unreserved storage capacities, including 109 mcm under firm conditions and 615 mcm under interruptible conditions. In addition, under short-term contracts SSO made available to the third parties 21,5 mcm of storage capacities on interruptible basis.

In 2014 applicants submitted in total six requests for the conclusion of agreements on the provision of storage services, including one from the gas TSO. All applicants were granted storage capacities according to the expressed demand.

In the scope of anti-hoarding of storage capacity in the event of contractual restrictions, Article 17 of Regulation 715/2009 shall apply. SSO assessed the utilisation of ordered storage capacity, thanks to which unused nominal off-take and injection capacities were made available as part of the daily storage service. SSO also enables and organises secondary trading in storage capacities, although in 2014 no request for sale of the contracted storage capacity was filed. When analyzing the utilisation of the contracted storage capacities, SSO verifies the utilisation degree reserving the right to reduce the capacities and offer them to other market participants (use it or lose it rule) in case of the utilisation level below 70%. In 2014 storage facilities were fully utilised.

The conducted monitoring has shown that SSO performs information duties related to storage capacity allocation mechanisms resulting from the SSO's function, in particular those laid down in Article 19 of Regulation 715/2009. It publishes information on contracted and available storage capacities

offered under daily storage service. Storage capacity allocation rules, rules for concluding agreements for the provision of storage services and their execution (nominations, re-nominations, allocations) that are determined by the SSO are included in the Rules of Provision of Storage Services and published on the SSO website (www.osm.pgnig.pl).

Monitoring the implementation of safeguards measures

In 2014 the President of ERO monitored the implementation of safeguard measures in the event of sudden crisis situation on the energy market, a threat to the physical security or safety of persons, equipment, installations or system integrity, through verification of emergency plans for restrictions in natural gas consumption, developed by the transmission, distribution and combined system operators. It was also done by verification of the plans or determination of the level of mandatory reserves of natural gas and analysis of information related to the above-mentioned measures.

Restrictions in natural gas consumption

Terms and conditions for the introduction of restrictions in natural gas consumption and rules for the development of restriction plans are described in detail in the National Report 2014.

In 2014, the obliged operators submitted 43 applications for the approval of restrictions plans for the season 2014/2015. In this regard, the President of ERO in 2014 issued 14 decisions approving the restriction plans. The restriction plans of fundamental importance for the functioning of the gas system, i.e. the plan developed by the gas transmission system operator – OGP Gaz-System S.A. (TSO) and the restriction plan developed by the gas distribution system operator Polska Spółka Gazownictwa Sp. z o.o., were approved with the decisions of 22 December 2014. The remaining restriction plans submitted to the President of ERO in 2014 and established for the season 2014/2015 were approved in the first quarter of 2015.

In 2014 restrictions in natural gas consumption were not applied.

Obligatory reserves of natural gas

Pursuant to the provisions of the Act on Stocks, the President of ERO, through a decision, verifies or determines the obligatory reserves of imported natural gas. The aim of maintaining the obligatory reserves is to prevent negative effects of disruptions in the natural gas supply, enabling rapid interventions allowing for compensation of deficiencies in the balance of gas supply to the market. The rules for determining the level of obligatory reserves of natural gas were described in the last year's Report.

In 2014 the President of ERO received 29 requests for determination or verification of obligatory reserves of natural gas. Out of the conducted proceedings, 7 ended with issuing a decision on the basis of Article 25, paragraph 3 of the Act on Stocks, and 27 with issuing a decision based on Article 25, paragraph 5 of the Act on Stocks.

In 2014 the President of ERO monitored the implementation of security measures also by the analysis of information received in connection with the operation of the above-mentioned measures, in particular:

- **the information submitted to the President of ERO pursuant to Article 27, paragraph 2 of the Act on Stocks by the energy companies involved in business activity in the scope of natural gas imports for the purpose of its further resale to customers**, i.e. the information about the actions undertaken during the period from 1 April of the previous year to 31 March of a given year, in order to (1) ensure fuel security of the State with respect to foreign trade in natural gas, and (2) the implementation of the obligation to maintain obligatory reserves of natural gas,
- **information collected by the President of ERO in survey conducted among energy undertakings that hold a licence for foreign trade in natural gas, concerning the obligation to maintain obligatory reserves of natural gas** – in 2014 the President of ERO conducted a survey regarding the obligation to maintain reserves of natural gas. The subject of the study included information on maintaining obligatory reserves of natural gas in the period from

1 June 2014 to 30 September 2014 and on having developed procedures, as referred to in Article 49, paragraph 1 of the Act on Stocks, i.e. the procedures applicable to: disruptions in the supply of natural gas to the gas system and an unforeseen increase in natural gas consumption by the customers,

- **information provided to the President of ERO by gas transmission system operator pursuant to Article 24, paragraph 4 and Article 52, paragraph 7 of the Act on Stocks** – in accordance with Article 24, paragraph 4 of the Act on Stocks if it is determined that the technical parameters of storage installations do not ensure the off-take of obligatory reserves of natural gas to the gas system in the period not longer than 40 days, the gas transmission system operator or gas combined system operator shall notify this fact to the President of ERO within 7 days. In 2014 the President of ERO did not receive the information provided pursuant to Article 24, paragraph 4 of the Act on Stocks from gas transmission system operator. According to Article 52, paragraph 7 of the Act on Stocks, gas transmission system operator or gas combined system operator shall immediately inform the minister responsible for economy and the President of ERO about the date and amount of released obligatory reserves of natural gas. This information is provided daily until 10.00 a.m., and relates to the previous day. In 2014 the President of the ERO did not receive the information provided in accordance with Article 2, paragraph 7 of the Act on Stocks from gas transmission system operator.

4.1.3. Network and LNG Tariffs for connection and access

Gas undertakings holding a licence for transmission, distribution or storage of gaseous fuels, liquefaction of natural gas or regasification of the liquefied natural gas perform the aforesaid activities based on tariffs set by themselves and approved by the President of ERO.

The essential condition for approval of a tariff is its compliance with the provisions of the Energy Law Act and secondary legislation to this Act, including in particular the Regulation of the Minister of Economy of 28 June 2013 on the specific rules for setting and calculating tariffs and charges in gaseous fuels trading¹²⁾. This regulation aligned the national law in the scope of setting and calculating tariffs for the transmission and storage services with the provisions of Regulation 715/2009.

In proceedings for tariff approval the President of ERO carries out a detailed analysis of costs, which constitute the basis for calculation of fee rates, making sure that there are no cross-subsidies between licensed and unlicensed activities, and between different types of licensed activities. The tariffs approved by the President of ERO are published in the Bulletin of ERO within 14 days from the approval date. Gas undertakings apply tariffs not earlier than after 14 days and not later than 45 days from the publication date.

The decision of the President of ERO approving or denying approval of the undertaking's tariff may be appealed to the Court of Competition and Consumer Protection, through the President of ERO, within two weeks of its receipt.

So far, the possibility for the President of ERO to set or approve temporary tariffs for the provision of transmission or distribution services in case of delays in their determination by undertakings providing those services, provided for in the provisions of Directive 2009/73/EC has not been implemented.

In the area of settlements related to the supply of gas to consumers, on 1 August 2014 there was a significant change connected with the replacement of the previously used volume units with energy units. The aforesaid change resulted from the provision of § 46 (1) of the above-mentioned Regulation of the Minister of Economy. Before the indicated date the tariff of gas undertakings had been adapted to conducting settlements according to the new rules. Adjustment of prices and fee rates expressed until 31 July 2014 in PLN/cubic metre or PLN/cubic metre/h per hour consisted in dividing them by a conversion factor. This ratio represents the quotient of the combustion heat and number 3.6. Combustion heat is a qualitative parameter, determined on the basis of gas composition measurements carried out in the gas network with the use of chromatographs, and published by the gas network operator on its website.

Undertakings involved in the transmission or distribution of gaseous fuels are obliged to conclude an agreement for connection to their network with entities requesting connection, on the basis of equal treatment, provided that there are technical and economic conditions for connection and supply of these

¹²⁾ Journal of Laws of 2013, item 820.

fuels, and the applicant requesting the conclusion of an agreement meets the conditions for network connection and off-take. The fee for connection of entities which do not perform activities in the transmission or distribution of gaseous fuels, their manufacturing or extraction, gaseous fuels storage and liquefaction or regasification of liquefied natural gas to the high-pressure network, is equal $\frac{1}{4}$ of the actual expenditure incurred for the execution of the connection. For connecting entities performing business enumerated in the preceding sentence, the fee shall be charged in the amount corresponding to the actual expenditure incurred for the connection. The fee charged for connecting entities, whose equipment, installations and networks are being connected to a network of low, medium and higher pressures is determined on the basis of fee rates calculated by the distribution network operators and included in their tariffs approved by the President of ERO. These rates are calculated on the basis of $\frac{1}{4}$ average annual investment in construction of network sections used for connecting these entities, set out in the development plan developed by the operator of the distribution system.

The key infrastructure undertakings in the gas sector are OGP Gaz-System S.A., PSG Sp. z o.o. and SGT EuRoPol Gaz S.A. (undertakings involved in gas supply) and OSM Sp. z o.o. (the undertaking providing storage services).

In reference to OGP Gas-System S.A. in 2014 two tariff proceedings were carried out. On 18 June 2014 the tariff of this company for the period until 31 December 2014 was approved, containing transmission fee rates relating to energy units instead of previously applied rates per volume unit.

On 17 December 2014 the tariff of OGP Gaz-System S.A. for 2015 was approved, which was another tariff containing the rates of transmission fees for entry to and exit from the transmission system. These rates were set for high-methane and nitrogen natural gas, including high-methane natural gas at the entry to and exit from the underground gas storage facilities.

In this tariff the share of revenues generated from fixed fees increased for both high-methane and nitrogen gas to 90%, from 85% in the preceding tariff. The rates at the points of entry to and exit from storage facilities were established with respect to the principle adopted in the previous tariff, i.e. these rates are equal 20% of transmission rates at points of entry to and exit from the natural gas transmission network other than storage facilities.

Similarly, with respect to the PSG Sp. z o.o., in 2014 the President of ERO took the decisions regarding the tariff of the company twice. The first, dated 18 June 2014, approved the tariff adapted to conducting settlements in energy units. The second proceeding - completed in December 2014 - concerned the determination of the tariffs of the undertaking for 2015.

In relation to OSM Sp. z o.o. in 2014 two tariff proceedings for this company were carried out. In case of the first proceeding, the subject of which was to amend the binding tariff, a decision was taken to terminate it due to the expiry of a tariff that was supposed to be amended. The second proceeding was completed in June 2014 with the decision approving the undertaking's tariff, containing provisions which allow for conducting customer settlements in energy units from 1 August 2014. It also established a fee for the provision of storage services in the new cavern storage Kosakowo, which was put into service in 2014. In connection with the extension of UGS Wierzchowice, UGS Strachocina and commissioning of the new cavern storage, the value of the storage assets and its maintenance costs increased, which, in turn, caused an increase in fees for the use of storage services by approximately 3%. It should be emphasised that the tariff for storage services includes the costs of exit from/entry to the transmission system and therefore the customer using storage service does not order the capacity at the exit from/entry to the transmission system and is not charged by the transmission system operator in this respect.

The key undertakings in the gas sector include also SGT EuRoPol GAZ S.A., which was subject to two proceedings concerning the tariffs of the company. The first, completed with the decision of the President of ERO of February 2014, was conducted following the company's request submitted to the ERO in 2013. The approved tariff was divided into two parts, the second of which allowed for conducting customer settlements in energy units. The second of the conducted proceedings was completed in December 2014.

4.1.4. Cross-border issues

Access to cross-border infrastructure, including allocation and congestion management

Pursuant to Annex 1 to Regulation 715/2009, establishing Network Code on Congestion Management Procedures – CMP, TSO was obliged to introduce the procedures covered by this code to the system until 1 October 2013. Polish TSO, OGP Gaz-System S.A. introduced the CMP mechanisms to the Network Codes of both the National Transmission System and Transit Gas Pipeline System (TGPS). These procedures were approved by the President of ERO.

The first of the implemented congestion management mechanisms is the oversubscription and buy-back mechanism. If the TSO, based on the analysis of, among others, statistical data, recognises the existence of contracted firm capacity at a given interconnection point that is not regularly used in a given period and restricts other operators' access to the transmission system – TSO should offer additional capacity to other system users. This capacity will be offered as a day-ahead product on a firm basis. In the event that the total nominations of all users of the system at this point in a given day exceed the technical capacity, the TSO will conduct a buy-back auction, during which users will have the possibility to resell the contracted capacity. The price ceiling for such auction was set at 1,5 of the rate for daily transmission capacity. In case the buy-back by the TSO in a way ensuring execution of all nominations is impossible – TSO will reduce all buyers of the daily product on firm basis and pay them a proper discount. Another mechanism is the user's right to withdraw from the contracted capacity. Each user has the right to opt out the reserved capacities and free it to the TSO. The user retains all rights and obligations relating to the contracted capacity until it is re-allocated by the TSO. The last of the implemented CMP mechanisms is the mechanism of revocation of the unused capacity in the long term (*long term use it or lose it* – LT UIOLI). This mechanism provides for the possibility to revoke the capacity contracted on interconnectors under long-term contracts from a user, when it utilises on average less than 80% of that capacity per year, both in the period from 1 April 1 to 30 September and in the period from 1 October to 31 March, and other network users unsuccessfully apply for the capacity at this point.

In terms of the obligations resulting from Annex 1 to Regulation 715/2009 concerning CMP, in 2014 OGP Gaz-System S.A. did not offer additional capacity under the oversubscription mechanism. There were also no conditions to apply LT UIOLI mechanism to long-term capacity allocation. In the previous year, one of the entities reported TSO a willingness to withdraw from the previously allocated capacity at the Lasów entry point. This capacity was offered under resale/sharing offer on the secondary market, but raised no market interest.

The management and allocation procedures for interconnection capacity are regulated in Regulation 715/2009 and Annex I of this document and in Regulation 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation in the gas transmission systems (CAM). Detailed provisions in this respect were approved by the President of ERO in the TNC.

In the Polish transmission system, capacity allocation on the firm basis under yearly, quarterly and monthly products in the physical entry and exit interconnection points is conducted under auction procedure, in accordance with the principles set out in the TNC. The capacity available on a firm basis in the above-mentioned points, in the first place and to the extent agreed with the cooperating system operators, shall be made available as a bundled product, under common auction conducted by the TSO and the cooperating operators. To the extent to which the capacity available at these points will not be made available as bundled, the allocation shall be carried out under auction procedure on the Auction Platform as unbundled capacity. The available firm and interrupted capacity is made available for a period of one gas day on the basis of the "first come, first served" rule. Firm capacity of the physical entry and exit points, referred to above is made available:

- in the range of up to 90% of the technical capacity of a given point, under yearly products (maximum of up to 4 gas years following the year in which the request was filed),
- in the range of at least 10% of the technical capacity of a given point, under quarterly products made available for the next gas year,
- as regards capacity uncontracted, under yearly and quarterly reports products, as monthly products and then for one gas day.

TSO allocates capacity also on interruptible basis in the physical entry or exit point to/from the transmission system, when 90% of the technical capacity of a given physical point has been allocated as firm capacity.

In 2014 the President of ERO monitored the cooperation of the transmission system operator OGP Gaz-System S.A. with the transmission system operators of the neighbouring countries. As regards the interconnections of national system with the neighbouring transmission systems, OGP Gaz-System S.A. operates on the basis of agreements with the neighbouring TSOs. These agreements describe in detail terms and conditions of the dispatcher cooperation in the scope of control over gas flows at the interconnection points on the Polish border. Within the cooperation between OGP Gaz-System S.A. and the German TSO GASCADE Gastransport GmbH, on 31 March 2014 an investment project enabling physical reverse flow on the Yamal pipeline was successfully completed. Since 1 April 2014, the technical possibility has been provided to import gas to Poland, in the volume of 2,3 bcm per year, under reverse flow service on firm basis. In February 2014, OGP Gaz-System S.A. as the TGPS operator, together with GASCADE, allocated bundled firm capacity at the Mallnow point under quarterly product auction for the period from 1 April to 1 October 2014.

In addition, cooperation with the Czech transmission system operator NET4GAS s.r.o was initiated to carry out pilot auction of the bundled capacity at the Cieszyn point, with the use of capacity platform Gaz-System Aukcje (GSA). As part of the pilot auction, bundled capacity at the Cieszyn point was made available as a monthly product for April 2015.

At the same time the President of ERO monitors the allocation of capacity on all interconnectors, including the Eastern ones. Detailed data on the transmission capacity on OGP Gaz-System S.A.'s interconnectors are presented in table 10.

Table 10. Interconnectors with other transmission systems (volume units/energy units)¹³⁾

System operator	Country	Interconnection	Direction of supply	Unit	Total firm transmission capacity*	Contracted transmission capacity
OSGT Gaz-System S.A.	Poland	Point of Interconnection	Poland	[mcm/year]	5 226,80	4 369,30
				[MWh/year]	57 906 699,00	48 903 614,00
GASCADE	Germany	Mallnow	Germany	[mcm/year]	30 660,00	30 660,00
				[MWh/year]	339 826 680,00	339 826 680,00
GASCADE	Germany	Mallnow reverse	Poland	[mcm/year]	1 696,31	1 523,65
				[MWh/year]	18 793 315,67	16 880 368,25
GASCADE	Germany	Mallnow reverse**	Poland	[mcm/year]	5 330,46	3 447,46
				[MWh/year]	59 055 682,95	38 194 153,28
ONTRAS	Germany	Lasów reverse**	Germany	[mcm/year]	1 513,44	0,00
				[MWh/year]	16 874 904,40	0,00
ONTRAS	Germany	Lasów	Poland	[mcm/year]	1 513,40	1 432,4
				[MWh/year]	16 874 904,00	16 053 451,00
ONTRAS	Germany	Gubin (we)	Poland	[mcm/year]	17,50	17,50
				[MWh/year]	196 399,00	196 399,00
Net4Gas	Czech Republic	Cieszyn reverse**	Czech Republic	[mcm/year]	587,17	0,00
				[MWh/year]	6 593 914,61	0,00
Net4Gas	Czech Republic	Cieszyn	Poland	[mcm/year]	589,40	573,10
				[MWh/year]	6 618 980,00	6 438 139,00
Severomoravske plynarenske	Czech Republic	Branice Czech	Poland	[mcm/year]	1,40	1,40
				[MWh/year]	15 796,00	15 794,00
Ukrtransgaz	Ukraine	Drozdowicze	Poland	[mcm/year]	4 355,00	4 355,00
				[MWh/year]	49 211 322,00	49 211 322,00
OAO Gazprom Transgaz Belarus	Belarus	Kondratki	Poland	[mcm/year]	33 743,50	33 743,50
				[MWh/year]	373 850 520,00	373 850 520,00
OAO Gazprom Transgaz Belarus	Belarus	Tietierowka	Poland	[mcm/year]	238,30	238,30
				[MWh/year]	2 686 153,00	2 686 153,00
OAO Gazprom Transgaz Belarus	Belarus	Wysokoje	Poland	[mcm/year]	5 373,10	3 278,50
				[MWh/year]	60 554 795,00	36 684 804,00
Ukrtransgaz	Ukraine	Hermanowice**	Ukraine	[mcm/year]	1 458,90	829,50
				[MWh/year]	16 485 704,00	9 373 524,00
ONTRAS	Germany	Kamminke	Germany	[mcm/year]	131,40	0,00
				[MWh/year]	1 463 796,00	0,00

* The maximum firm transmission capacity that the TSO can offer to network users, taking into account system integrity and exploitation requirements of the transmission network.

** Supply on interrupted basis (firm service in the Mallnow reverse point has been offered since April 2014).

Source: ERO based on the data of OGP Gaz-System S.A.

¹³⁾ Settlements for the provided gas transmission service were carried out in volume units (cubic metres). However, following the entry into force of the amendments to the tariff regulation, since 1 August 2014 settlements for the provided gas transmission service have been carried out in energy units (kWh).

Cooperation with the regulatory authorities from other counties

In 2014 works on the implementation of the *Roadmap towards a common regional V4 gas market*, adopted in 2013, were continued. The main objectives of the Roadmap are: the development of infrastructure and interconnections between the V4 countries, cooperation in the physical market integration in the region and in the implementation of the network codes by strengthening cooperation between regulators and transmission systems operators in the region. The works on the gas market integration are carried out within the V4 Forum for Gas Market Integration, which provides political support to this process and coordination of activities between the ministries, national regulators and transmission system operators. In 2014 the cooperation within the Visegrad Group resulted, among others, in the development of comparative analysis of specifications of interrupted capacity products in all V4 member states. This analysis showed similarities in the systems of the V4 countries, with the exception of the Hungarian system. The priorities of the Slovak presidency of the Visegrad Group, which lasted from 1 July 2014 until 30 June 2015, included: cooperation on security of gas supply, the even implementation of the network codes, development of transmission infrastructure and implementation of the Gas Target Model in the V4 region. The project on the assessment of necessary conditions required for obtaining trade licences in the countries of the region was also continued. The aim of the project is to create an appropriate basis for the possible harmonisation in the scope of granting licences in the entire V4 region.

In the scope of common implementation of network codes, the President of ERO cooperated with the regulatory authorities of neighbouring countries. Due to the necessity of preparing for timely implementation of the provisions of Regulation No. 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM) on existing cross-border interconnections with Germany and the Czech Republic, in 2014 a close cooperation with the relevant regulatory authorities of those countries was undertaken. The cooperation between the operators and the regulators resulted in implementation of a pilot project on bundled capacity allocation at the Mallnow point, as well as starting similar works on a corresponding pilot project at the Cieszyn point.

In 2014 the cooperation of the President of ERO with other regulatory authorities and ACER on cross-border issues was also carried out in relation to the tasks arising from Regulation 347/2013, in particular regarding the work on the complex investment request filed by the transmission system operator OGP Gaz-System S.A. Article 2 (4) of the Regulation 347/2013 defines "project of common interest" as a project necessary to implement the energy infrastructure priority corridors and areas set out in Annex I and which is part of the Union list of projects of common interest referred to in Article 3 of this Regulation.

The transmission system operator OGP Gaz-System S.A., implementing the provisions of Article 12 (3) of Regulation 347/2013, together with the operators of neighbouring transmission systems of the interested EU Member States, submitted to the President of ERO (and regulators of the relevant Member States) investment requests concerning:

- Project of gas interconnection between Poland and the Czech Republic,
- Project of gas interconnection between Poland and Lithuania,
- Project of gas interconnection between Poland and Slovakia.

According to Article 12 (4) of the aforesaid Regulation, within six months of the date on which the investment request was received by the national regulatory authorities concerned, the national regulatory authorities shall (...) take coordinated decisions on the allocation of investment costs to be borne by each system operator for the project, as well as their inclusion in tariffs. The national regulatory authorities may decide to allocate only part of the costs, or may decide to allocate costs among a package of several projects of common interest.

The fact that the decisions taken by regulators in the concerned countries had to be coordinated implied the need to make prior arrangements with regulators of the countries involved in the implementation of the projects and discuss the way of implementation in various areas and taking into account number of options. Bearing in mind the provisions of the Regulation and ACER's Internal guidance on the treatment of cross-border cost allocation requests for electricity and gas projects of common interest, it was necessary to coordinate the decisions, the more that the implementation of the provisions of each one of them was possible only with the entry into force of the other ones, which relate to settlements connected with the same investment request. Therefore, it was necessary to

determine the way of proceeding, including the way of fulfilment of the procedural requirements imposed by national law of the particular countries, as well as to agree on the scope of calls to the transmission system operators for correction of the request, in order to ensure its compliance with Regulation 347/2013 and separate provisions, as well as to provide additional information necessary for evaluation of the investment requests filed by the operator.

Moreover, in order to support the implementation process of the TEN-E Regulation, the President of ERO worked within special task forces appointed by the European Commission and ACER to develop guidelines and recommendations allowing for unification of the rules concerning the submission and evaluation of investment requests, as well as the issuance of the decision.

The aforesaid issue is discussed in detail in the following section of the report due to its strong connection with the process of agreeing development plans.

Monitoring investment plans and assessment of consistency with Community-wide network development plan

Energy undertakings involved in the transmission or distribution of gaseous fuels, pursuant to Article 16, paragraph 1 of the Energy Law Act, are obliged to elaborate, for the area of their activity, development plans in terms of meeting current and future demand for these fuels.

Monitoring of the investment plans was based on the reports on their execution, which energy undertakings involved in the transmission and distribution of gaseous fuels submit to the President of ERO by 30 April of each year.

In 2014 the President of ERO agreed development plan for meeting the current and future demand for gaseous fuels, developed by OGP Gaz-System S.A. (TSO) for the period 2014-2023, where the level of expenditure was agreed only for the period 2014-2018.

In line with the assumptions of the "Polish Energy Policy until 2030", the essential issue in the development plan of OGP Gaz-System S.A. is to ensure appropriate conditions for diversification of supply and improvement of its security, while the issue of demand security is rather the result of the implementation of activities in the area of diversification of routes and sources of supply, so it does not have a priority significance for making investment decisions. The analysed options of the transmission service demand resulting from domestic demand assume increases determined most of all by the development of energy based on natural gas.

In order to improve conditions for the diversification of gas supplies in 2014 physical reverse was introduced in Mallnow, which provides effective access to gas sources from different directions. Further investments that improve the supply structure comprise the planned Poland-Czech Republic and Poland-Slovakia interconnectors and the expansion of Poland-Germany interconnection in Lasów.

An important objective of the plan in question is also to secure adequate supplies to the domestic market during peak demand. In this respect, the areas were identified with limited transmission capacity and under a risk of transmission capacity constraints, where OGP Gaz-System S.A. plans and implements investments to eliminate the identified threats.

In the period 2014-2023 OGP plans to construct more than 3 thousand km of gas pipelines and a number of other system elements related to gas pipeline infrastructure, most of which will be DN 700 gas pipelines located mainly in the Eastern part of Poland.

In this group, the biggest planned investment is the gas pipeline connecting Polish and Lithuanian transmission systems. It should be noted that, in relation to the Eastern part of the transmission system, the conditions for the development of the transmission system are not yet fully stabilised, what results from the lack of information on the growth of gas demand, especially of the energy sector customers (including e.g. Energetyka Puławy), as well future operation of the energy supply sources from Belarus and Ukraine. Therefore, one should reckon with the possibility of significant modifications in the investment program in this part of Poland related to both the investment scope and technical parameters of gas pipelines.

In the indicated period OGP assumes a significant increase in the number of DN 1000 gas pipelines, which will constitute elements of the future North-South Corridor. These pipelines will be located mainly in the Western and Southern part of Poland. Thanks to such parameters it will be possible to provide supplies from the LNG terminal and from other sources in the North of the country to customers in the Southern and Eastern Poland, as well as to the neighbouring countries.

The most important investments are shown below in figure 30 and table 11.

Figure 30. Ongoing and planned investments in the perspective of 2018 and 2023



Source: Development plan of OGP Gaz-System S.A.

Table 11. Comparison of gas pipelines diameters under MG, OD and RI Scenarios**

Investment project		Diameter [mm]			Length [km]
		MG	OD	RI	875
INVESTMENTS IN THE PERSPECTIVE OF 2014					
1	Świnoujście – Szczecin	800	800	800	80
2	Szczecin – Gdańsk	700	700	700	265
3	Szczecin – Lwówek	700	700	700	186
4	Gustorzyn – Odolanów	700	700	700	168
5	Rembelszczyzna – Gustorzyn	700	700	700	176
6	Hermanowice node				
7	Gustorzyn node				
8	Rembelszczyzna node				
INVESTMENTS IN THE PERSPECTIVE OF 2018					
					795
9	Polkowice – Żary	300	300	300	66
10	Lasów – Jeleniów	700	700	700	19
11	Gałów – Kielczów	500	500	500	54
12	Czeszów – Wierzchowice	1 000	1 000	1 000	13
13	Czeszów – Kielczów	1 000	1 000	1 000	32
14	Zdzieszowice – Wrocław	1 000	1 000	1 000	130
15	Zdzieszowice – Kędzierzyn	1 000	1 000	1 000	19
16	Poland – the Czech Republic*	1 000	1 000	1 000	60
17	Tworzeń – Kędzierzyn	1 000	1 000	1 000	47
18	Tworzeń – Tworzeń	1 000	700	1 000	56
19	Lwówek – Odolanów	1 000	1 000	1 000	162
20	Hermanowice – Strachocina	700	700	700	72
21	Mory – Piotrków Trybunalski on the Wolbórz – Piotrków Trybunalski section	400	400	400	6
22	Rembelszczyzna – Mory	700	700	700	29
23	Wronów – Kozienice*	500	500	500	30
24	Mory node				
25	Tworzeń node				
26	Wygoda node				
27	Jeleniów node				
28	Jeleniów II compressor station				
29	Rembelszczyzna compressor station				

30	Kędzierzyn compressor station				
31	Odolanów compressor station				
INVESTMENTS IN THE PERSPECTIVE OF 2023					1 226
32	Pogórska Wola – Tworzeń	1 000	700	1 000	160
33	Strachocina – Pogórska Wola*	1 000	700	700	120
34	Poland – Slovakia*	1 000	1 000	1 000	64
35	Leśniewice – Łódź	700	700	700	66
36	Mory – Wola Karczewska	700	700	700	82
37	Rembelszczyzna – Wronów*	700	700	700	135
38	Rozwadów – Końskowola – Wronów*	1 000	700	700	103
39	Jarosław – Rozwadów*	1 000	700	700	60
40	Hermanowice – Jarosław	700	700	700	39
41	Poland – Lithuania	700	700	700	357
42	Goleniów – Płoty	700	700	700	40
43	Goleniów compressor station				
44	Strachocina compressor station				

* Diameter is still subject to additional analysis.

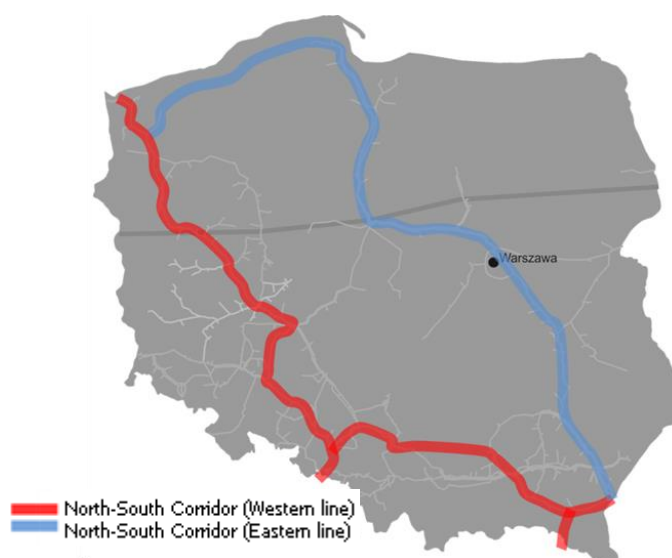
** MG, OD and RI – Moderate Growth, Optimal Development and Real Implementation Scenarios, respectively.

Source: Development plan of OGP Gaz-System S.A.

The development program of the North-South Corridor is the main and the most important investment program initiated by OGP Gaz-System S.A. Two sections of the North-South Corridor: Western and Eastern were located on the territory of Poland. Some of investments located in North-Western Poland are already being implemented by the OGP. These include Świnoujście-Szczecin and Szczecin-Lwówek gas pipelines.

In the perspective of 2018 the main Western section of the North-South Corridor will be constructed, allowing for transmission of significant amounts of gas from the LNG terminal in Świnoujście to the South and East of Poland and distribute gas supplied from the Czech Republic and Slovakia. At the same time, it is assumed that both interconnections will allow for gas transmission in both directions. The aim of OGP Gaz-System S.A. is the implementation of pipeline sections along with other system objects in the perspective of 2018, if the market confirms the interest in the use of new directions of gas supply.

Figure 31. Layout of the North-South Corridor routes



Source: Development plan of OGP Gaz-System S.A.

OGP Gaz-System S.A. participated, within ENTSOE, in the development of the adopted "Gas Regional Investment Plan of Central-Eastern Europe 2012-2021", which identified 42 investment projects on the territory of the Republic of Poland. Of the identified projects, 18 were declared as the projects of

common interest in the informal working groups set up during the works on the Regulation 347/2013. Due to a significant link between the regulation in question and the process of agreeing development plans, the issue is discussed in this section of the Report.

The status of the projects of common interest, which were put on the PCI list adopted by the European Commission, was determined under the Commission Delegated Regulation (EU) No. 1391/2013 of 14 October 2013 amending Regulation (EU) No. 347/2013 of the European Parliament and of the Council on guidelines for trans-European energy infrastructure as regards the Union list of projects of common interest. Out of the projects of gas interconnectors included in the list, the Polish transmission system operator OGP Gaz-System S.A. chose three projects with the highest degree of maturity and sophistication, the implementation of which will significantly improve the security of gas supply in the region. These projects allow for connecting the Polish transmission system with gas systems of neighbouring countries, i.e. the Czech Republic, Slovakia and Lithuania.

Given the above, OGP Gaz-System S.A., acting pursuant to Article 12 of Regulation 347/2013, filed to ERO three investment requests for the planned gas interconnections, i.e.:

1) Project of Poland – Czech Republic gas interconnection

This project was included in the PCI list as an element of the priority corridor, i.e. North-South gas interconnector in the Central-Eastern and South-Eastern Europe, whose construction will allow for the flow of gas between Poland, the Czech Republic, Slovakia and Hungary, therefore connecting LNG terminals in Poland and Croatia. The project of gas interconnection between Poland and the Czech Republic was defined in point 6.1. of the Regulation as the so-called cluster named: "Czech – Polish interconnection upgrade and related internal reinforcements in Western Poland". Implementation of this project consists in the construction of a bi-directional and efficient gas interconnection between Poland and the Czech Republic, which will enable the flow of natural gas at the level of 5 bcm per year in the Poland-Czech Republic direction and 6,5 bcm per year in the Czech Republic-Poland direction, with the possibility of further extension. Border point will be located in the Czech Republic in the Hat/Owsiszce area, while on the Polish side – in Silesian voivodeship. The project, in case of the Polish section – apart from the 60 km pipeline connecting both transmission systems, includes also the construction of a new network with a length of 237 km and construction of compressor and metering stations. The assumed commencement date of the particular project parts is 2019.

2) Project of Poland – Slovakia gas interconnection

This project, similarly to the one described above, is part of the construction of the North-South priority corridor, at the same time is specified in point 6.2. of the Regulation as the cluster – "Poland – Slovakia interconnection and related internal reinforcements in Eastern Poland". Implementation of this project consists in the construction of a bi-directional gas interconnection between Poland and Slovakia, which will enable the flow of natural gas at the level of 4,7 bcm in the Poland-Slovakia direction and 5,7 bcm in the Slovakia-Poland direction, with the possibility of further extension. Gas interconnection will have a length of 164 km and the project provides for the development of the gas system on the Polish and Slovak side. In case of the Polish section – apart from the 58 km pipeline connecting both transmission systems, the projects includes the construction of new gas network with a length of 47 km, expansion of the currently operated gas pipelines with a length of 258 km and the construction of gas compressor station. The expected start date of the project exploitation is 2020.

3) Project gas connection between Poland and Lithuania

This project was included in the PCI list as an element of the priority corridor named Baltic Energy Market Interconnection Plan for gas. At the same time, it is set out in point 8.5. of the Regulation as the so-called Cluster – infrastructure upgrade in the Eastern Baltic Sea region, including Poland-Lithuania interconnection, known as GIPL (Gas Interconnection Poland-Lithuania). Implementation of the aforesaid project, through the construction of bi-directional and efficient gas interconnection between Poland and Lithuania, is aimed at ensuring integration of the currently isolated markets of the Baltic countries. The planned pipeline is expected to reach the length of 534 km. In total, it is planned to build a 357 km gas pipeline on the Polish side and 177 km on the Lithuanian side. The starting point is planned in the Rembelszczyzna (PL), and the final one in Jauniunai (LT). The initial technical capacity is expected to reach 2,4 bcm per year in the direction from Poland to Lithuania. The expected load factor is 20% of maximum load, which translates into an annual gas flow in the amount of approximately 473 mcm. Capacity in the opposite direction (from Lithuania to Poland) is estimated at 1,0 bcm per year.

The submission of the aforesaid requests allowed for initiating, by the President of ERO, works within the conducted administrative proceeding that, in accordance with Article 12 (4) of the TEN-E Regulation, should be completed within six months of the date on which the last investment request was received by the national regulatory authorities concerned, the national regulatory authorities shall (...) take coordinated decisions on the allocation of investment costs to be borne by each system operator for the project, as well as their inclusion in tariffs. The national regulatory authorities may decide to allocate only part of the costs, or may decide to allocate costs among a package of several projects of common interest. This means that in certain cases the indicated Regulation allows for the possibility of covering the investment costs connected with the implementation of the project in one Member State, with the tariff for access to the network in the Member States, in which the project generates a net positive impact. Terms of covering these costs by individual transmission system operators shall be established in coordinated investment decisions issued by the NRAs of the concerned Member States.

TEN-E Regulation indicates that the relevant national regulatory authorities shall determine, in coordinated decisions, the allocation of investment costs to be borne by transmission system operators under the project. The decisions consider the costs and benefits of an economic, social and environmental character, as well as the possible need for financial support, associated with the projects in the relevant Member States.

The fact that the decisions taken by regulators of the concerned countries had to be coordinated implied the need to make prior arrangements in various areas and taking into account number of options. Bearing in mind the provisions of the Regulation and ACER's Internal guidance on the treatment of cross-border cost allocation requests for electricity and gas projects of common interest, it was necessary to coordinate the decision, the more that the implementation of the provisions of each one of them was possible only with the entry into force of the other ones, which relate to settlements connected with the same investment request. Therefore, it was necessary to determine the way of proceeding, including the way of fulfilment of the procedural requirements imposed by national law of the particular countries, as well as to agree on the scope of calls to the transmission system operators for correction of the request in order to ensure its compliance with Regulation 347/2013 and separate provisions, as well as to provide additional information necessary for evaluation of the investment requests filed by the operator. In order to coordinate the actions it was also necessary to agree the way of exchanging information.

This above allowed for starting the procedure of the requests' assessment and making multilateral agreements aimed at issuing coordinated decisions. In this regard it should be noted that Regulation 347/2013 does not give national regulators the right to issue binding decisions towards operators from other Member States, nor obliges regulators to take a decision with equal content as regards the allocation of costs. Therefore, it was assumed that the regulator, taking into account the provisions of the regulators' agreement as regards given investment request, shall decide on the costs allocation relating to operator functioning in the territory of a given country. Different approach would result in disputes over authorities and deny the sense of concluding, by the relevant national regulatory authorities, agreement on the given investment request filed by the operators from different countries.

In addition, in order to determine the appropriate level of financing of infrastructure investments set forth in the requests it was necessary to establish revenue that a given investment generates and the so-called financial gap that it creates. The conducted financial analysis allowed for determining the value of financial performance indicators of the investment and to determine the necessary level of co-financing from the EU funds.

What is important, bearing in mind the issue of possible funding of cross-border investments through an increase in the tariff rates in isolation from the benefits that according to CBA can be allocated to the Polish consumers, it should be noted that in principle such a possibility has already been exhausted. Poland has now one of the highest rates for the gas transmission service in Europe, and therefore the President of ERO intends to reduce the tariff effects, of course taking into account the need to ensure the long-term maximisation of the effectiveness of expenditures and costs incurred by energy undertakings, while ensuring the continuity, reliability and the quality of supply. The aforesaid had also an impact on the process of agreeing of the currently binding development plan of OGP Gaz-System S.A. for the years 2014-2023.

[As regards Poland-Slovakia interconnection](#) – in order to support the evaluation and implementation of the investment project – under the intergovernmental agreement, i.e. "Agreement between the Government of the Republic of Poland and the Government of the Slovak Republic on cooperation in the implementation of the investment project concerning interconnector between the Polish and Slovak

transmission systems” of 22 November 2013, a Working Group was established with the participation of the Polish regulator representatives.

At the same time, due to Article 12 (4) and (6) of Regulation 347/2013, relating to the agreement between the relevant regulatory bodies concerning the investment request, on 20 November 2014 the Polish and Slovak regulator concluded an agreement concerning the above-mentioned investment request, in the form of the Memorandum of Understanding. In the aforesaid agreement national regulatory authorities confirmed their intention to issue coordinated decisions related to that project and to set the scope of decisions in order to coordinate them.

As a result, the President of ERO on 28 November 2014 issued a decision on cross-border allocation of costs incurred by OGP Gaz-System S.A., concerning the implementation of the project of Poland-Slovakia gas interconnection.

Moreover, in 2014 the President of ERO fulfilled also other obligations associated with this decision and provided for in Regulation 347/2013, i.e. notified the decision to ACER and published it in the Bulletin of ERO – Gas fuels of 28 November 2014, No. 109 (778).

As regards Poland-Czech Republic interconnection it should be noted that this investment project also gained the regulators’ support. On 18 June 2014 an agreement was concluded, in the form of the Memorandum of Understanding between the Czech and Polish regulator regarding the above-mentioned investment request. In this agreement the aforesaid national regulatory authorities confirmed their intention to issue coordinated decisions related to the project in question and set the scope of decisions in order to coordinate them. As a result, the President of ERO on 24 June 2014 issued a decision on cross-border allocation of costs incurred by OGP Gaz-System S.A., concerning the implementation of the project of Poland-Czech Republic gas interconnection. Thus, the President of ERO approved the method of settling and including in the transmission tariffs of OGP Gaz-System S.A. of mutual guarantees, aimed at reducing the investment risk associated with the construction of the interconnection on both sides of the border. Symmetrical decision, agreed with the President of ERO and addressed to the Czech gas transmission system operator – NET4GAS s.r.o. – was issued by the Czech regulator.

The operators applied for approval of the mutual settlements related to the implementation of planned investments. The mechanism provides for a mutual off-setting of revenues in case of lack of revenue from tariffs in a given period. The proposal assumes also that the missing amount, necessary for implementation by Gaz-System S.A. of the aforesaid project on the Polish territory will be supplemented with the UE funds from the Connecting Europe Facility.

When issuing the decision the President of ERO considered the joint investment request of the Polish gas transmission system operator – OGP Gaz-System S.A. and the Czech gas transmission system operator – NET4GAS s.r.o. to take coordinated decision on the cross-border cost allocation of the Poland-Czech Republic gas interconnection, as well as its inclusion in tariffs for gas transmission services as legitimate.

As regards Poland-Lithuania interconnection – within the administrative proceeding – intensive works on the evaluation of the investment request were undertaken and a number of multilateral arrangements were carried out with the regulators of Baltic states affected by the project, in order to issue a coordinated decision. In this context, it must be emphasised that the principal objective of the implementation of GIPL gas interconnector between Poland and Lithuania is the integration of gas markets of the isolated markets of the Baltic states (Lithuania, Latvia and Estonia), which do not have the infrastructure connected to the EU gas system. In terms of supply routes, these countries are totally dependent on one supplier of natural gas and interconnection with the EU gas market could improve the security of gas supplies of the aforesaid Baltic countries. Thus, as resulted from the conducted analysis, benefits of the project lay clearly on the side of Lithuania, Latvia and Estonia, whereas a significant part of the costs is allocated on the Polish side, with the result that Poland is the Member State “deemed to have a net negative effect from the implementation of the project” (Article 1 of the ACER’s Decision of 11 August 2014).

The regulatory authorities of the aforementioned States failed – within the time stipulated in the Regulation – to agree a common position and in accordance with the provisions of Article 12 (6) of Regulation 347/2013, which states that “Where the national regulatory authorities concerned have not reached an agreement on the investment request within six months of the date on which the request was received by the last of the national regulatory authorities concerned, they shall inform the Agency without delay. In this case or upon a joint request from the national regulatory authorities concerned,

the decision on the investment request including cross-border cost allocation referred to in paragraph 3 as well as the way the cost of the investments are reflected in the tariffs shall be taken by the Agency within three months of the date of referral to the Agency" the case was referred to ACER.

On 11 August 2014, the Agency issued Decision No. 01/2014 on the investment request including cross-border cost allocation for the gas interconnection Poland-Lithuania project of common interest. Under the aforesaid decision, ACER recalculated the cost-benefit analysis submitted by the promoters of the project and assessed the submitted project in terms of, among others, the admissibility of the project, including the consultations conducted with the operators from the neighbouring countries affected by the project, its stage and maturity. In the ACER's decision Poland was identified as a country incurring costs (i.e. a net negative effect), while the net beneficiaries are: Lithuania, Latvia and Estonia. Therefore – as indicated in the decision – lump sums should be paid by the TSO of the Member States, on which the project has a significant positive net effect, i.e. Lithuania, Latvia and Estonia, to the TSO of the Member State with a net negative effect of the project, i.e. Poland.

Following the decision of ACER, the President of ERO carried out in 2014 tasks aimed at promoting the implementation of the above-mentioned decision, i.a. agreed with the regulators of Baltic countries the need to conclude an agreement in the form of so-called Statement of Clarification which will precisely specify activities of the project promoters and at the same time minimise the risks arising from the project. It was decided that the agreement will precisely set out the obligations imposed on the transmission system operators by the ACER's decision, including payment methods of the so-called lump sums. Work on this document has been continued in 2015.

4.1.5. Compliance

Compliance of transmission and distribution companies, system owners and gas undertakings with the relevant Community legislation, including cross-border issues

In 2014 monitoring, by the President of ERO, of the transmission and distribution system operators focused on the analysis of their tasks resulting directly from Regulation 715/2009 and the Energy Law Act. The President of ERO monitored the execution of tasks performed by the transmission system operators in particular with regard to non-discriminatory treatment of system users, and the implementation of reporting obligations.

Monitoring of transmission system operatorship, carried out by OGP Gaz-System S.A., related to:

- the provision of services connected with the third party access,
- capacity management and allocation rules, including the application of transmission capacity allocation mechanisms,
- congestion management procedures,
- balancing mechanisms and the level of imbalance charges,
- obligation to publish information on the interconnections, use of network and transmission capacity allocation to the parties to an agreement for the provision of gaseous fuels transmission services.

In 2014 no breaches of the TSO's obligations in relation to cross-border issues were detected.

Changes in the provisions of the Transmission Network Code

In connection with the obligation to implement the new system congestion management procedures resulting from Regulation 715/2009 and the Commission Decision 2012/490/EU of 24 August 2012 (CMP), in 2014 TGPS Network Code was amended. The aforesaid provisions were already implemented to the TNC with the decision of the President of the ERO of 22 November 2013. Works on the implementation of these provisions to the TGPS Network Code were completed on 3 February 2014. As part of the CMP Network Code implementation, oversubscription and buy-back rules were introduced, as well as the possibility for the shipper to withdraw from the allocated capacity and the mechanism of revoking unused capacity from the user on the basis of long-term "use it or lose it" rule (i.e. long term UIOLI). Apart from the above-mentioned procedures, also the rules for the provision of transmission services applied in the national transmission system were harmonised, including: replacement of the existing transmission agreements with the Framework Agreement and implementation of the provisions enabling settlements in energy units (kWh). In the exit points from TGPS system to the national

transmission system a virtual point of interconnection was created, thanks to what currently users have the possibility to book the summed capacity of Lwówek and Włocławek interconnections without having to specify which of these points the reservation concerns.

In 2014 also the provisions of the NC of the national transmission system was amended, allowing for conducting settlements for the provided service of gaseous fuels transmission in energy units (kWh). Under this amendment allocation rules for bundled products were introduced to the TNC, in accordance with the Commission Regulation (EU) No. 984/2013 of 14 October 2013 establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (CAM). Starting from 1 November 2015, the available capacity of the physical exit/entry points on interconnection with the transmission system of the EU Member State shall be made available as a bundled product under common auction of the TSO and the cooperating system operator, on an agreed online platform approved by the President of ERO. A mechanism of balance groups' functioning was introduced, under which one system user can be responsible for balancing the other users belonging to the same balance group. In addition, operation rules of small distribution system operators were harmonised and provisions were modified to facilitate the process of gas supplier switching during gas year. The new Network Code entered into force on 1 August 2014.

Monitoring fulfilling the certification conditions by the TSO

On the basis of the statutory regulations the President of ERO has the power allowing him to effectively control the compliance of transmission system operators and transmission network owner with their obligations under the Energy Law Act, including, in particular, the control of compliance by TSO with the independence criteria determined in Article 9d, paragraph 1a of the Energy Law Act and the criteria set out in Article 9h¹, paragraph 7 of the Act.

With regard to the TSO, the scope of competence of the President of ERO includes, in accordance with Article 23, paragraph 2 of the Energy Law Act, i.a. controlling the fulfilment by the TSO of the obligations stemming from Regulation 715/2009, approving TNC, approving and controlling the application of gas tariffs, monitoring the gas system functioning as regards interconnection capacity management and allocation rules, balancing and congestion management mechanisms, fulfilment of the TSO's obligation to publish information concerning interconnections, network usage and capacity allocation.

In addition, in accordance with Article 23, paragraph 2, point 6b of the Energy Law Act, the scope of activities of the President of ERO comprises controlling the compliance of transmission network owner and gas transmission system operator with obligations set out in the Act and the agreement referred to in Article 9h, paragraph 3, point 2 of the Act, including the monitoring of relations between the owner of transmission network and the operator of gas transmission system, and the flow of information between them.

According to Article 9h, paragraph 13 of the Energy Law Act, in case of entrusting obligations of TSO under paragraph 3, point 2, or the designation of TSO under paragraph 9, the President of ERO is entitled to carry out a control of the compliance of the transmission network owner or transmission system operator with obligations referred to in paragraph 11 and 12, in Article 9c and in Article 16. The provisions of Article 79, paragraph 1 and paragraphs 4-7 of the Act of 2 July 2004 on the Freedom of Economic Activity¹⁴⁾ shall not apply to the control.

Furthermore, pursuant to Article 9h¹, paragraph 10 of the Energy Law Act, energy undertaking which has been granted the certification of independence, or in case referred to in paragraph 6, is obliged to inform the President of ERO about the planned transactions or activities that may affect the compliance of this undertaking with the criteria of independence, within 14 days from the date of making the decision or becoming aware of these transactions or activities. In addition, in accordance with Article 9h¹, paragraph 11 of the Act, the President of ERO verifies the fulfilment, by the operator referred to in paragraph 1, of the criteria of independence:

- 1) after submitting by this operator of the information referred to in paragraph 10,
- 2) ex-officio, in case of justified doubts regarding the compliance with these criteria,
- 3) upon a reasoned request of the European Commission.

¹⁴⁾ Journal of Laws of 2015, item 584, as amended.

Moreover, in accordance with Article 9h¹, paragraph 12 of the Energy Law Act, in case of refusal to grant the certification of independence or after concluding, following the verification referred to in paragraph 11, that the operator of the transmission system or combined system does not meet the criteria of independence referred to in Article 9d, paragraph 1a, or the criteria referred to in paragraph 7, the President of ERO determines, by a decision, the criteria that are not met and sets the deadline for taking actions to meet these criteria. In the absence of action by the deadline, the President of ERO may revoke a decision on designating the undertaking as the operator.

The President of ERO is therefore able to control the fulfilment of the criteria of independence by the TSO and monitor fulfilment of obligations by the TSO and the transmission network owner, also ex-post, after issuing a certification of independence, what further strengthens them and ensure their compliance.

At the same time, in order to ensure the effectiveness of the rules imposed on electricity undertakings in the Energy Law Act, the legislator has included in this Act the provisions sanctioning incompliance of the energy companies with their duties. According to Article 56 of the Energy Law Act, a financial penalty imposed by the President of ERO can be imposed on anybody, who, among others:

- "1b) does not submit the Code referred to in Article 9g, paragraphs 7 and 8 for approval of the President of ERO, or, despite summons, submits Code that does not meet the requirements specified in the Act; (...)
- 1e) does not comply with the obligations arising from the provisions of Regulation (EC) No. 1775/2005/EC of the European Parliament and of the Council of 28 September 2005 on conditions for access to the natural gas transmission network; (...)
- 4) for reasons that are unjustified refuses to conclude the agreement referred to in Article 7, paragraph 1;
- 5) applies prices and tariffs, failing to comply with the obligation referred to in Article 47 to submit them for approval of the President of ERO;
- 5a) does not submit the tariffs for approval, contrary to the request of the President of ERO, referred to in Article 47, paragraph 1; (...)
- 6) applies prices or fee rates higher than the approved or uses tariff contrary to the conditions laid down in it;
- 7) refuses to provide information referred to in Article 28;
- 7a) deliberately or through negligence misleads the President of ERO as regards information referred to in Article 28, presented at his request; (...)
- 9) employs persons without qualifications required by the Act;
- 10) does not maintain proper technical conditions of facilities, installations and equipment; (...)
- 12) does not comply with the obligations arising from the licence; (...)
- 14) for reasons that are unjustified, suspends or restricts the supply of gaseous fuels, electricity or heat to customers;
- 15) for reasons that are unjustified, delays to notify the President of ERO or the concerned entity about a refusal to conclude the agreements referred to in Article 4g, paragraph 1 or Article 7, paragraph 1; (...)
- 20) does not comply with the conditions and criteria of independence of the system operator referred to in Article 9d, paragraphs 1-2;
- 21) does not provide system operator designated for its network with the conditions and criteria of independence, referred to in Article 9d, paragraphs 1-2 (...);
- 24) being the operator designated pursuant to Article 9h, does not carry out the obligations of the operator arising from the Act;
- 24a) while not being the operator of the transmission system, distribution system, gaseous fuels storage system operator, natural gas liquefaction or the combined system operator designated pursuant to Article 9h, provides transmission services, distribution services, services of gaseous fuels storage, natural gas liquefaction or regasification of liquefied natural gas;
- 25) for reasons that are unjustified, does not apply to the President of ERO with a request referred to in Article 9h, paragraphs 1 and 6, and fails to fulfil the conditions laid down in the decision issued pursuant to Article 9h, paragraph 9;
- 25a) for reasons that are unjustified, does not apply to the President of ERO with a request for granting the certification of independence or does not meet the conditions laid down in the decision referred to in Article 9h¹, paragraph 12;
- 26) does not comply with the obligations referred to in Article 9h, paragraphs 11 and 12 (...);

31) does not submit the reports referred to in Article 9d, paragraph 5a and Article 16, paragraph 18, or plans referred to in Article 16, paragraphs 2 and 4”.

It should be emphasised that the proceeding on the fines can be opened only ex-officio. Information provided to the President of ERO may give basis to launch inspection, resulting in the initiation of the ex-officio proceeding. It shall also be noted that the Energy Law Act does not provide for limitation periods – actions constituting torts under administrative law can be sanctioned regardless of the period that elapsed from the conduct contrary to the rules of the Energy Law Act.

In connection with the referenced rules of the Energy Law Act, the President of ERO holds supervisory powers in relation to energy undertakings in terms of their statutory duties, as well as is equipped with tools that enable effective sanctioning the conduct of energy undertaking that is contrary to the obligations set out in the Act.

Due to the fact that in 2014 the President of ERO for the first time conducted the proceedings on granting TSO the certification of independence, the issue of TSO’s independence under the OU and ISO formulas were verified in the course of these proceedings. After analysis of the collected evidence the President of ERO concluded that OGP Gaz-System S.A. remains in terms of legal and organisational form and decision-making independent from other activities not related to transmission of gaseous fuels, and meets the criteria of independence, referred to in Article 9d, paragraph 1a, in connection with Article 9d, paragraphs 1b and 1c of the Energy Law Act. Fulfilling the criteria of independence by the operator in both the OU and ISO models will be subject to monitoring of the President of ERO in subsequent years.

4.2. Promoting competition

4.2.1. Wholesale market

In 2014 the development of the wholesale natural gas market in Poland were progressing, mainly in connection with the obligation to sell natural gas on a commodity exchange. This obligation in that year amounted to 40% of the gas fed into the network, while wholesale turnover on the domestic market (the sale of gas carried out in bilateral contracts to trading companies and sales through the gas exchange) accounted for 36% of national consumption.

Natural gas flows

In 2014, 525,4 TWh of gas flowed through the Polish transmission system. Most of this gas was transited using the Yamal pipeline. The below table shows the most important directions of gas flow in the transmission system.

Table 12. Balance of high-methane and nitrogen gas flows in the transmission system (including Transit Gas Pipeline System) in 2014 [TWh]

Type of gas	2014	
	High-methane gas	Nitrogen gas
Entry to the system in total	516,30	9,10
of which: mines and denitrating plants	28,50	9,10
storage facilities	16,60	0,00
supplies from outside the EU	436,30	0,00
supplies from the UE	34,80	0,00
other (entries from distribution)	0,10	0,00
Exit from the system in total	516,30	9,10
of which: blending stations and denitrating plants	0,00	4,20
storage facilities	17,70	0,00
to the distribution network	103,60	3,70
to the final customers of the transmission network	52,10	1,20
supplies to the UE [MWh]	329,70	0,00
supplies outside the EU	8,30	0,00
operator’s own needs (including the change in operator’s account)	4,90	0,01

Source: ERO, on the basis of data provided by OGP Gaz-System S.A. and SGT EuRoPol GAZ S.A.

Trade in natural gas

At the end of December 2014, 141 entities were licensed to trade in gaseous fuels. However, only 59 energy undertakings have actively participated in natural gas trading.

Trading companies not belonging to PGNiG S.A. Capital Group acquired 25,4 TWh of natural gas, about 18% of which was purchased from PGNiG S.A. and about 21% on the commodity exchange. Data on the purchase and sales of gas by trading companies are presented in the table below. The volume of acquired gas includes acquisition for own needs by the trading companies that were subject to monitoring and acquisition directly from abroad by big customers.

Table 13. Volume of gas acquired and sold within wholesale trade by the largest trading companies in 2014 [TWh]

	Total	PGNiG S.A. CG	Other trading companies
Acquired gas	218,0	192,6	25,4
Wholesale sales of gas	53,9	48,1	5,8

Source: ERO, on the basis of data provided by the trading companies.

Natural gas exchange

Sales and purchase of gas on the Polish gas exchange market are carried out, as in case of electricity, mainly on the commodity exchange run by POLPX. The participants of the stock market are mainly gaseous fuels trading companies and big end-users who can act independently, after the conclusion of an agreement with POLPX and becoming members of the commodity exchange, or through brokers. Trading on the exchange is conducted through the conclusion of sales contracts (transactions) between members of the exchange.

In 2014 POLPX carried out the following gas sales markets: Intraday Market, Day-Ahead Market and Forward Instruments Market with Physical Delivery. Sales of natural gas were also conducted within the auction system.

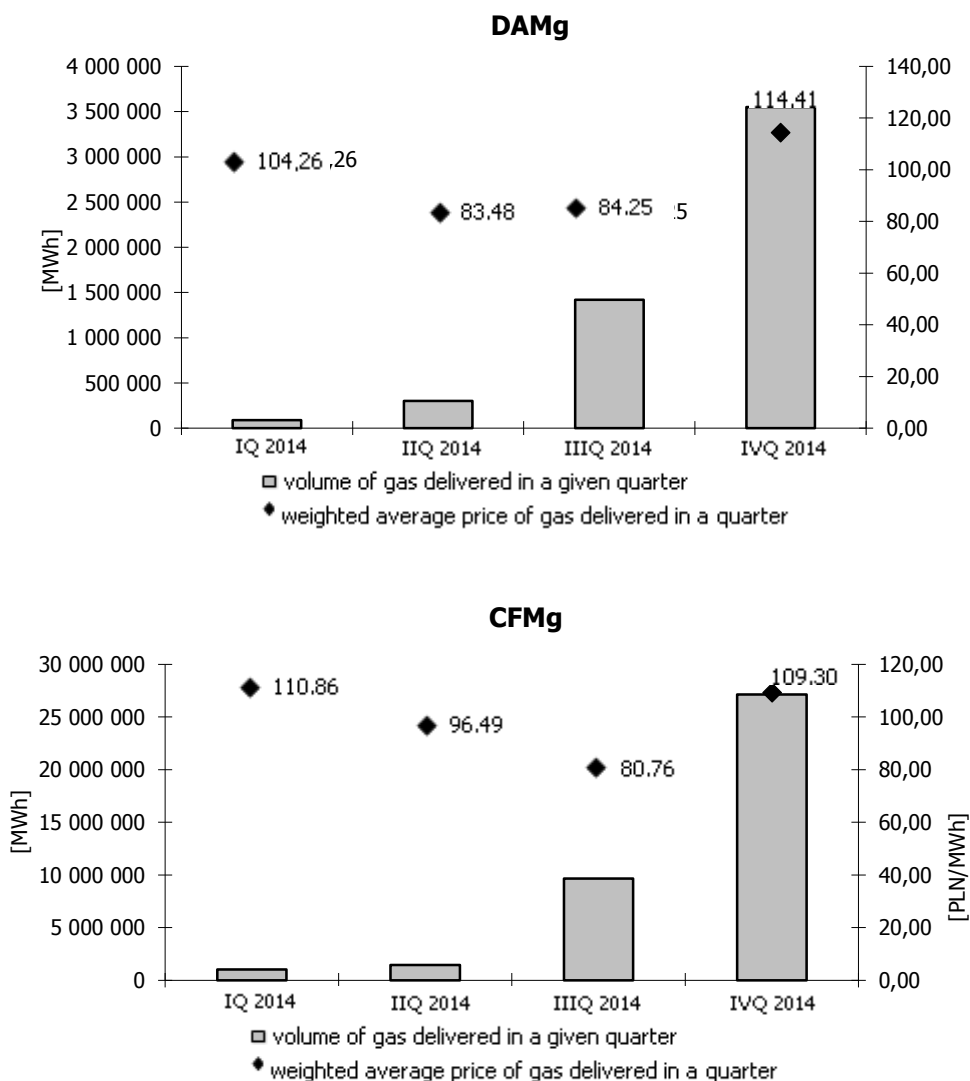
Subject of trade on the Commodity Forward Instruments Market with Physical Delivery for gas (CFMg) is the supply of gas in equal volumes at all hours of the delivery period compatible with the standard of the product (monthly, quarterly and yearly). Trading is conducted on weekdays from 8.00 a.m. to 2.00 p.m. in the continuous trading mode. Listing period ends two days before the start of the implementation period.

Subject of trade on the Day-Ahead Market (DAMg) is the supply of gas in equal volumes at all hours of the delivery day. It is a *base* type product, and one contract corresponds to the delivery of 1 MWh of gas during each hour of the delivery day. Trading is conducted during one day preceding the date of delivery in the *fixing* and continuous trading system.

In addition, on 30 July 2014 POLPX launched gas trading on the Intraday Market for gas. Launching of this market was to allow members of the exchange for daily balancing of gas supplies. Trading on the intraday market (IDg) is conducted in the continuous trading mode, on the delivery day in the period from 8.00 a.m. to 1.30 p.m. Quotations are held each day and are conducted in 19 hourly instruments. The first five hours of the gas day, which begins at 6.00 a.m., are inactive. End of quotation of the instrument takes place 2,5 hours before the start of the delivery period.

The figure below shows the results of gas trading in 2014.

Figure 32. Volume and price of gas delivered as a result of the execution of contracts concluded on the gas Day-Ahead Market (DAMg) and Commodity Forward Instruments Market with Physical Delivery for gas (CFMg), which were executed in 2014



Source: ERO, on the basis of data provided by POLPX.

In the four quarters of 2014, as a result of contracts concluded on POLPX 44 619 144 MWh of natural gas were delivered at an average price of 102,17 PLN/MWh. During this period, the volume of concluded contracts amounted to 5 386 123 MWh on the spot market and 105 074 954 MWh on the forward market. The average price of gas delivered as a result of contracts concluded on the spot market in the IVQ of 2014 amounted to 114,41 PLN/MWh. On the forward market in the IVQ of 2014 the average price was equal 109,30 PLN/MWh.

Development of gas exchange market is i.a. a consequence of the introduction of Article 49b to the Energy Law Act, imposing on energy companies involved in the trade in gaseous fuels an obligation to sell part of high-methane natural gas fed in a given year into the network on commodity exchanges or market organised by the entity operating regulated market on Polish territory (hereinafter: the obligation of public sale of natural gas). In 2014 this obligation amounted to 40% of the gas fed into the transmission network by the companies involved in natural gas trading.

4.2.2. Retail market

In 2014 a significant change took place in the retail part of gas market, consisting in reorganisation of retail sales within the PGNiG S.A. capital group. On 1 August 2014, PGNiG OD Sp. z o.o. launched

operating activity, taking over the entire commercial service for retail customer in the sale of natural gas (with the exception of large industrial customers consuming over 25 mcm).

PGNiG S.A. Capital Group's share in the sales of natural gas to end-users decreased and amounted to 89,24%, whereas in the preceding year it was equal 94,24%. The remaining 10,76% of gas sales to end-users was conducted by other trading companies active in the country (5,24%) and by companies selling gas from abroad directly to big final customers that brought this gas to Poland on their own.

Analysing the market in terms of volume of retail sale of natural gas by PGNiG S.A. Capital Group in 2014 to all group of customers it shall be stated, that the highest volume was sold to industrial customers. Their share in the whole sales of PGNiG S.A. Capital Group amounted to about 60%. Share of sales to households was equal 28%.

Apart from PGNiG S.A., in 2014 monitoring was extended to approximately twenty alternative retailers, whose share in the volume of gas sales to end-users on the retail market amounted to 5,24%, with the highest share of: Handen Sp. z o.o. (1,09%), G.E.N Gas Energy S.A. (0,62%) and Duon Dystrybucja S.A. (0,55%). Other parties' share in the sale was not significant, but increased in comparison to the previous year.

The aforesaid alternative trading companies sold in 2014 a total of 8,14 TWh of gas to final customer, with the highest volume of gas sold to customers with the consumption over 2,5 mcm.

Apart from high-methane and nitrogen gas, PGNiG S.A. and other trading companies sold gas in liquefied form (LNG) and compressed gas (CNG). The total volume of LNG sales to final customers in 2014 amounted to approximately 777 tons, and CNG to 8,54 mcm (0,1 TWh).

4.2.2.1. Monitoring the level of prices, the level of transparency, the level and effectiveness of market opening and competition

Retail gas market remains a regulated market. Details regarding the tariff proceeding carried out in 2014 are set out in section 4.2.3.

Although retail market of gaseous fuels is constantly changing towards liberalisation, there were still several obstacles, among which market participants mentioned as the most important:

- obligation to maintain obligatory reserves at the level of at least 30 days of average daily amounts of gas brought in. The company may be exempted from this obligation, if in the year the volume of gas brought in will not exceed 100 mcm. In practice, in 2014 none of the energy companies on the Polish market (with the exception of PGNiG S.A) brought in gas for the purpose of trading in amounts higher than those which determine the exemption. Alternative suppliers pointed out that the need to take into account the cost of maintaining obligatory reserves in the cost of offered gas would make it impossible for them to offer natural gas on the domestic market on terms more attractive than the incumbent's tariff,
- difficulties with meeting legal requirements for diversification of gas supplies that oblige energy companies to reduce the share of gas brought in from one country of origin to 70% in relation to the total amount of gas brought in a given year. These regulations, adopted in 2000, are not adapted to the current market conditions and do not take into account the existing technical possibilities of obtaining gas from alternative directions.

In addition, market participants point out the problem of high concentration of trading on the exchange, long-term contractual obligations to purchase gas (i.e. take or pay clauses) applied by PGNiG S.A. in relation to large end-users, and regulatory risks.

The law and the requirements of the approved DNC guaranteed equal treatment of the participants with regard to access to gas infrastructure. The operator PSG Sp. z o.o. had the Compliance Program approved by the President of ERO, to ensure equal treatment of all system users in many areas, which allows for strengthening the position of alternative suppliers.

The distribution system operator published up-to-date information on the gas system functioning in accordance with the requirements of national and European provisions. All the rules of market functioning specified in the distribution operator's Code were publicly available, therefore there were no significant barriers in access to market information. The only problem signalised by smaller market participants from abroad was the lack of English translation of some documents, e.g. DNC.

Pursuant to the Act on Competition and Consumer Protection, in case of abuse of dominant market position, the President of OCCP may issue a decision recognizing the practice as restricting competition and order its abandonment, and impose a fine on an undertaking abusing dominant position. In the

recent years, a few anti-trust proceedings have been conducted as regards PGNiG S.A. As a result of these proceedings obligations to introduce amendment to comprehensive agreements were imposed, which will help customers supplied by PGNiG S.A. to terminate the concluded agreement, change supplier or resale gas. These decisions were well received by market participants; however, the process of their implementation is still ongoing.

In 2014 the President of OCCP initiated administrative proceeding to impose a financial penalty on suspicion of delay in the execution of the President's decision¹⁵⁾.

With the decision of 17 October 2014, based on Article 49, paragraph 1 and Article 88, paragraph 2 in connection with Article 85 of the Act on Competition and Consumer Protection, the President of OCCP initiated proceeding to impose on Polskie Górnictwo Naftowe i Gazownictwo S.A. with its seat in Warsaw and PGNiG Obrót Detaliczny Sp. z o.o. with its seat in Warsaw, a financial penalty, referred to in Article 107 of the aforesaid Act, in relation to suspicion of delay in the execution of point I.)4) of the operative part of the decision of the President of OCCP of 31 December 2013 No. DOK-8/2013, i.e. to the extent that the decision imposed the obligation to submit:

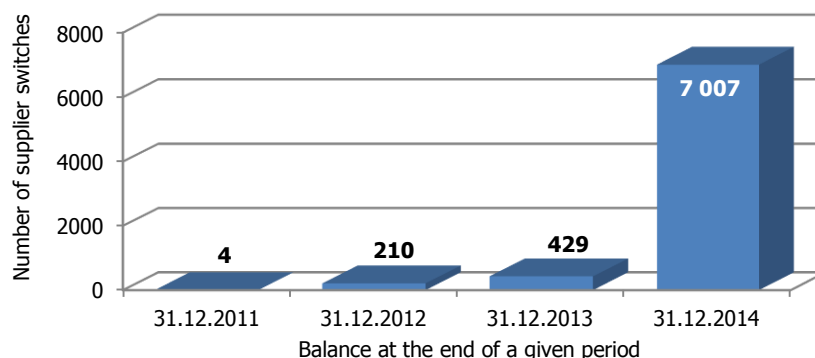
- a) to customers, whose agreements contain provisions limiting the ability of non-household customers to reduce the volumes of gas contracted for subsequent years, in relation to the volume contracted in the current year or previous years – an offer to amend the concluded agreement by - depending on the wording of the agreement – either removal of the entire editorial unit containing the disputed provision of the agreement or appropriate modification of the editorial unit, so that the disputed provision was removed therefrom;
- b) to customers, whose agreements contain provisions limiting the ability of non-household customers to reduce the contractual capacity for subsequent years, in relation to the capacity contracted in the current year or previous years – an offer to amend the concluded agreement by - depending on the wording of the agreement – either removal of the entire editorial unit containing the disputed provision of the agreement or appropriate modification of the editorial unit, so that the disputed provision was removed therefrom.

As of the end of 2014 the proceeding was ongoing.

Access to highly efficient technologies did not constitute a barrier to the development of a competitive natural gas market. The highly efficient technologies of electricity and heat production with the use of natural gas are available. The only barrier limiting the use of these technologies is the relation between the prices of coal and lignite, prices of electricity and natural gas prices.

In 2014 a significant increase in the number of supplier switching was noted on the retail market. In the year 6 578 gas customers changed their supplier, and counting from the beginning of the monitoring, i.e. since 2011, their number amounted to 7 007.

Figure 33. The number of supplier changes (according to the number of switches) calculated cumulatively at the end of 2011, 2012, 2013 and 2014



Source: ERO, on the basis of data provided by DSOs and the TSO.

It is worth noting that the prevailing majority of 7 007 supplier switches made until the end of 2014 were conducted by household customers. This may be caused by recent intensification, by some alternative suppliers, of sales and advertising campaigns dedicated to this group of customers.

¹⁵⁾ The following part is based on the information provided by OCCP.

An important factor supporting growth in the number of supplier switches on the gas market is the fact that the DSO had the largest possible number of signed agreements for the provision of gaseous fuel distribution services (Framework Agreements). Framework Agreement concluded between the operator and the supplier is a condition for conducting business activity by the supplier of gaseous fuel on the territory of the given DSO. Hence, in order to enable supplier switching by customer connected to the DSO's network, the supplier must have signed an agreement for the provision of gaseous fuel distribution services with that operator. This agreement sets out the conditions for the functioning of the supplier in the operator's area and its cooperation with the operator. At the end of 2014, 80 suppliers had valid agreements concluded with the TSO, including 46 that also had agreements with the DSO.

It should be emphasised that in connection with the entry into force of the new DNC of PSG Sp. z o.o. on 1 January 2014, and due to the introduction of a single distribution area for each type of gas, which replaces the previous areas of distribution, suppliers adjusted the existing contracts to the new specimen of the distribution agreement sent to them by the DSO. The signing of new contracts by the suppliers has enabled them to provide their services throughout Poland.

4.2.3. Recommendations on supply prices, investigations and measures to promote effective competition

Pursuant to the provisions of Article 45, paragraph 1 of the Energy Law Act and executive regulations issued on the basis of Article 46 of the aforesaid Act, energy undertakings calculate tariffs for gaseous fuels or electricity that allow for covering the planned justified costs of conducted business activity, along with the fair return on capital employed in this activity. The deviations of the planned costs from the actual costs (both above and below the threshold) are not taken into account in the tariffs of these undertakings, determined in the subsequent years.

Nevertheless, in case of a significant change to the conditions of conducting business activity by the aforementioned undertaking during the time when the tariff is in force, the undertaking can apply to the President of ERO for the approval of the correction of binding tariff. In well-justified cases (both in a situation when external conditions threaten the financial standing of the undertaking, and when they generate too high revenues) the President of ERO, after completing an administrative proceeding, can issue a decision correcting the applied tariff.

In general, the principles of calculating tariffs in 2014 did not change in comparison to 2013, apart from introducing mandatory settlements in energy units.

Among the tariff proceedings carried out in 2014, 4 related to the biggest entities conducting business activity in the field of trade in gaseous fuels, i.e. PGNiG S.A. and PGNiG OD Sp. z o.o.

The second of the above-mentioned undertakings was on 1 August 2014 separated from the structure of PGNiG S.A. and took over all end-users previously serviced by PGNiG S.A., who annually consume less than 25 mcm of high-methane natural gas and corresponding volumes of nitrogen gas and propane-butane gas, calculated in the manner specified in the Act. From the customer's point of view, tariff of this company is crucial because it provides gas to over 6.8 million customers in the country. The first tariff of PGNiG OD Sp. z o.o. was approved by the President of ERO on 17 December 2014, and was introduced on 1 January 2015. This tariff was calculated on the basis of the planned justified costs of running business activity, which are mainly affected by the cost of gas purchases (mainly on POLPX).

After the separation of PGNiG OD Sp. z o.o., PGNiG S.A. supplies gas to end-users who exceed the quantitative criteria referred to above; to wholesale customers that purchase gas for resale; and sells high-methane natural gas through the commodity exchange. In the first and second segment the sale of gas is still based on regulated prices, while sales on the POLPX is not subject to tariff regime.

In 2014 two tariff proceedings concerning this company were carried out. The first was concluded with the decision of 13 June 2014 amending the tariff then in effect, which resulted from a change in billing system from volumetric units to energy units. The second proceeding was finalised on 17 December 2014. The classification criteria established in the tariff direct the company's offer to customers connected to the distribution network and off-taking more than 110 kWh of gas per hour. In addition, classification for each tariff group was dependent on both the annual contracted volume, and the value of the consumption irregularity index. The tariff established seven ranges due to the irregularity of consumption and six due to quantitative criterion – separately for customers connected to the distribution and transmission network and to purchasing gas at the virtual point.

4.3. Security of supply

Pursuant to the Energy Law Act, the government authority in charge of energy policy, including issues related to energy security, is the Minister of Economy. It is also the competent authority in terms of security of gas supply referred to in Regulation (EU) No. 994/2010. The regulator cooperates with the Minister of Economy as regards the tasks stemming from the aforesaid Regulation and Directive 2009/73/EC, in connection to the competences of the President of ERO determined by the national law.

In consequence, the security of natural gas supply, understood as ensuring customer access to the energy of specified quality and at transparent prices, is the area of energy security monitored constantly by the President of ERO with the use of instruments assigned to him.

4.3.1. Monitoring balance of supply and demand

Gas supplies from abroad, in the amount of 121 TWh, were supplemented with gas from domestic sources in the amount of 44,3 TWh, which constituted 27% of the total natural gas supply. The total supply of gas from abroad comprised import from the Eastern direction and intra-Community supplies, whereas its significant part was constituted by import from the Eastern direction carried out under the long-term contract concluded between PGNiG S.A. and OOO Gazprom Export. Under this contract 90,7 TWh of gas were purchased, which constituted about 75% of total volume of this resource brought to the territory of Poland.

The information on the structure of gas supplies in 2014 are presented in the tables below.

Table 14. Structure of gas supplies in 2014

Specification	Volume [TWh]
1. Gas brought from abroad, including:	121,0
- „Yamal” contract”	90,7
2. Extraction	44,3
3. Gas storage facilities (change in the reserves volume)*	-0,4*

* „+” – increase of reserves, „-” – decrease of reserves

Source: ERO, on the basis of data provided by gas trading companies.

Table 15. Total natural gas supplies in 2014

Supplies		Production	
total* [bcm]	peak** [mcm/day]	total [bcm]	daily production capacity [mcm/day]
14,2	76,0	4,5	11,8/12,7
			yearly average/peak

* extraction + imports + intra-Community acquisition + other domestic sources – export + change in the volume of reserves (Note: purchase from domestic sources has also been included in order to give the total volume of natural gas supply)

** maximum daily gas supply in a year

Source: PGNiG S.A.

Table 16. Domestic production capacity in 2014*

Production capacity [bcm/year]	Production capacity [mcm/day]
4,4	12,7

* Production capacity is determined on the basis of 90% of maximum daily production capacity of 365 days, which takes into account operational downtimes of the production centres. The difference between production capacity and the production of natural gas is connected with seasonal variations in demand for nitrogen natural gas in the summer and winter season. During the period of peak demand for nitrogen natural gas (major falls in temperature in the winter season) production capacity is used to the maximum extent, whereas in the summer season the demand for this type of gas falls. Production capacity of the mines extracting high-methane natural gas is used to the maximum extent throughout the year.

Source: PGNiG S.A.

4.3.2. Expected future demand and available supplies as well as envisaged additional capacity

In 2014 total natural gas consumption in Poland amounted to 15 436,22 mcm. According to the expectations, in subsequent years the share of gas in the national energy balance should be slightly increasing, due to its greater use in electricity production, the development of highly-efficient gas and steam technology, and as a result of systematic increase in gas consumption by end-users. Forecasted sales of gas until 2023 are presented in the table below.

Table 17. Forecast of natural gas sales in the years 2015–2023

Year	[bcm]	[MToe]
2015	13,454	11,700
2016	14,320	12,454
2017	13,918	12,104
2018	13,899	12,087
2019	13,845	12,040
2020	13,720	11,932
2021	13,732	11,942
2022	13,700	11,914
2023	11,503	10,003

Source: ERO.

In 2014 OGP Gaz-System S.A. carrying out the operator's tasks transmitted 15,82 bcm of high-methane gas and 0,93 bcm of nitrogen gas, respectively. The table below shows the volume of transmitted gas (in MWh and bcm, at 0°C), the expected demand for the next 3 years, and long-term perspective for the years 2014-2021.

Table 18. Forecast of the increase of the volume of transmitted gas in the years 2015-2021

a) high-methane natural gas (with the average heat of combustion on all exit points recorded in 2013 at the level of 11,088 kWh/cubic metre)

	Year	[TWh]	[bcm]
Volume of transmitted gas	2014	165,5	15,82
Expected demand	2015	198,2	17,87
	2021	282,2	25,45

b) nitrogen natural gas (with the average heat of combustion on all exit points recorded in 2014 at the level of 8,759 kWh/cubic metre)

	Year	[MWh]	[bcm]
Volume of transmitted gas	2014	8 268 095	0,93
Expected demand	2015	9 634 900	1,10
	2021	5 956 120	0,68

Source: OGP Gaz-System S.A.

According to the TSO, the forecasted increase in natural gas supply can take place due to the continuous process of connecting new customers – mainly small businesses – to the distribution networks, and large industrial customers to the transmission network. It is planned that the increase in the volume of gaseous fuels transmitted in 2015 will be implemented through the use of existing "entry" points to the gas system.

4.3.3. Measures to cover peak demand and shortfalls of suppliers

Monitoring of the security of gas supply carried out in 2014 was focused on the areas of the market functioning referred to the activities described below, with particular emphasis on the issues relating to:

- licences

In case of licence for foreign trade in natural gas, the entity's ability to create obligatory reserves that have an influence on the security of supply is taken into consideration. The entity applying for such licence has to: possess its own storage capacities, have a concluded preliminary agreement for the provision of storage services of obligatory reserves, or obtain an exemption from the obligation of

maintaining obligatory reserves (through an administrative decision issued by the Minister of Economy). Moreover, the President of ERO, when issuing the licence, informs the entrepreneur about the obligation to ensure the proper level of supply diversification in accordance with the Regulation of the Council of Ministers of 24 October 2000 on the minimum level of diversification of foreign natural gas supplies. The issued licences for foreign trade in natural gas include obligation to ensure diversification of gas supply.

- [tariffs](#)

Tariffication of the infrastructure undertakings is an indirect method of monitoring of the security of gas supply. During the tariffication process the scope of financing the assets (transmission, distribution, storage and liquefied gas installations) required for supplying fuels to customers is settled. The levels of investment outlays for network assets, as well as the amounts of money designated for repairs and modernisation of these assets, determine their physical condition, i.e. operational security. Review of the annual and quarterly reports submitted by the companies of the PGNiG SA Capital Group and OGP Gaz-System S.A. show that the approved tariffs ensured good financial condition of the undertakings, thereby allowing for the financing of investments, modernisation plans and repairs.

- [approving the plans of introducing restrictions to the natural gas consumption, developed by the operators](#)

Pursuant to Article 58, paragraph 1 of the Act on Stocks, operator of the gas transmission system and the operators of gas distribution systems are obliged to develop plans of introducing restrictions to the natural gas consumption, and pursuant to Article 58, paragraph 17 of the Act on Stocks the above-mentioned operators shall update the restriction plans every year and submit them, until 15 November of a given year, for the approval of the President of ERO, in the form of regulator's decision. Developing restriction plans and then the possible implementation of restrictions in the natural gas consumption by the Council of Ministers through the regulation shall facilitate the security of natural gas supply in case of: threat to the national fuel security, unexpected increase in natural gas consumption by customers, occurrence of disruption in the import of natural gas, failure in the networks of gas system operators, threat to the safety of persons, threat of substantial property damage and the need to fulfil international obligations by the Republic of Poland (see Article 54, paragraph 1 of the Act on Stocks).

- [aggregation of information provided to the President of ERO pursuant to Article 27, paragraph 2 of the Act on Stocks, by energy undertakings conducting business activity in the scope of natural gas imports for the purpose of its further resale to customers](#)

Pursuant to Article 27, paragraph 2 of the Act on Stocks, energy undertakings performing business activity in the scope of natural gas imports for the purpose of its further resale to customers, submit, to the Minister of Economy and the President of ERO by 15 May of each year, information on activities undertaken in the period between 1 April of the preceding year and 31 March of a given year, in order to (1) assure the fuel security of the country in the scope of foreign trade in natural gas, and (2) fulfil the obligation to maintain obligatory reserves of natural gas. In 2014, information pursuant to Article 27 (2) of the Act on Stocks was submitted to the President of ERO by 40 energy undertakings.

- [conducting a survey among energy companies that hold a license for foreign trade in natural gas in respect of the obligation to maintain obligatory reserves of natural gas and to have developed procedures referred to in Article 49, paragraph 1 of the Act on Stocks](#)

In 2014 the President of ERO conducted a survey regarding the obligation to maintain obligatory reserves of natural gas and to have developed procedures referred to in Article 49, paragraph 1 of the Act on Stocks, i.e. the procedures applicable in case of: disruptions in the supply of natural gas to the gas system and the unexpected increase in natural gas consumption by customers. The survey covered 45 energy undertakings holding licences for foreign trade in natural gas, as of 30 September 2014 that provided information on having the above-mentioned procedures in place. In the context of assessment of the security of natural gas supply, attention should be drawn to the obligation to apply procedures referred to in Article 49 of the Act on Stocks, imposed on energy undertakings performing business activity in the scope of natural gas imports for the purpose of resale to customers and on the entities commissioning the provision of natural gas transmission or distribution services. As indicated in Article 49, paragraph 4 of the Act on Stocks, such procedures should determine, in particular, the way of launching additional supplies of natural gas from other sources or directions, and reducing natural gas consumption by customers in accordance with the agreements concluded with them, which does not mean restrictions referred to in Article 56, paragraph 1 of that Act. The said procedures, after agreeing with the entities responsible for their implementation, including with operators of other gas systems or customers, respectively, are immediately submitted to the gas transmission system operator or the gas combined system operator.

- [agreeing draft development plans of gas network undertakings](#)

Agreeing the draft development plans with the President of ERO allows for monitoring the initiatives necessary for maintaining the required level of reliability and quality of the provided network services.

As a result of agreeing draft development plans, network undertakings implement investment and renovation projects in order to ensure security of gas supply to customers.

- [determining obligatory reserves of natural gas through a decision, and monitoring the maintenance of these reserves](#)

The purpose of these obligations is to ensure the supply of natural gas to the Republic of Poland, and to minimise the effects in case of a threat to the fuel security of the country, emergency situation in the gas network, and unexpected increase in natural gas consumption.

- [monitoring the level of gas supply diversification](#)

An important element of ensuring energy security of the country is the diversification of sources of natural gas supply from abroad, according to the volumes specified in § 1 (1) of the Regulation of the Council of Ministers of 24 October 2000 on the minimum level of diversification of foreign natural gas supplies. The aforesaid volumes determine, for the period from 2001 to 2020, the maximum share of gas imported from one country of origin in relation to the total amount of gas imported in a given year. According to the provisions of the aforementioned regulation, in the years 2010-2014 the maximum share of gas imported from one country of origin in relation to the total amount of gas imported in a given year could not be higher than 70%.

The President of ERO conducts annual monitoring of the diversification level of foreign gas supplies and analyses compliance with the provisions of the above-mentioned regulation by entities holding licences for foreign trade in natural gas.

In 2014 the President of ERO once again carried out the monitoring of the diversification level of natural gas supplies carried out by the licensees, concerning the fulfilment of the above-mentioned obligation.

The monitoring covered 37 licensees, who held licences for foreign trade in natural gas. Due to necessity to send numerous summons to supplement the provided documentation, monitoring was finalised only in December 2014.

The conducted monitoring of the level of diversification of gas supplies from abroad proved that 18 licensees brought in natural gas. These imports comprised both import and intra-Community acquisition. At the same time, eight licensees brought in natural gas using the virtual reverse flow mechanism. In contrast, 19 out of 37 licensees reported that they did not bring in imported natural gas from abroad under the licences for foreign trade in natural gas, neither through import nor intra-Community acquisition.

- [monitor congestion management](#)

In 2014 also the tasks in the management of natural gas transmission were implemented, consisting, in particular, in the identification of the scale and place of congestions, as well as on identifying the reasons of their occurrence and the way of prevention. Congestions may occur in the gas system, among others, in relation to: the occurrence of the so-called bottlenecks, including limited network capacity; the need to maintain minimum pressure at exit points from the system and stable quality parameters of gaseous fuels; carrying out works in the system, including renovation and modernisation, and occurrence of emergency situations.

- [trade restrictions in the supply of gaseous fuel introduced in 2014](#)

Trade restrictions in the supply of gas, due to the fact that those are market means to ensure security of gas supply, is one of the key tools used to ensure supply of natural gas. However, no trade restrictions in the supply of gas were introduced in 2014 in connection with covering customers' demand for gas from the available sources.

- [monitoring conditions for network connection and their implementation](#)

In 2014 the President of ERO monitored the conditions for connecting entities to the transmission and distribution network. Monitoring of the conditions for connecting entities to the network and the establishing of connection is carried out, among others, in the course of investigation proceedings related to the complaints of entities requesting connection to the network and during the administrative proceedings concerning the refusal to conclude network connection agreement. In case of the transmission system operator the number of completed connections amounted to 17, while the number of refusals, i.e. denied transmission network connection requests, amounted to 1. In case of the distribution network the number of denied connection requests was much higher and amounted to 5 916; however, it is connected with the much larger size of the gas network and the number of potential customers. The reason for denials indicated by the operators was, in particular, the lack of technical conditions, including lack of

capacity on the existing gas network, a considerable distance from the gas network or the lack of underlying gas pipeline, lack of permits to enter the area where the investment would be carried out and the lack of economics conditions.

5. CONSUMER PROTECTION AND DISPUTE SETTLEMENT IN ELECTRICITY AND GAS

5.1. Consumer protection

Compliance with Annex 1 to Directives 2009/72/EC and 2009/73/EC

In September 2013 the provisions amending the Energy Law Act came into force, implementing i.a. provisions of Annex 1 to Directives 2009/72/EC and 2009/73/EC.

The provisions oblige DSO to enable customers of gaseous fuels or electricity to switch supplier within 21 days, determine the system of vulnerable consumers' protection based on housing allowance and introduce out of court dispute resolution mechanism for household consumers. Moreover, consumers gained right to receive final settlement with the current supplier not later than within 42 days from the day of supplier switching.

Under the amended provisions of the Energy Law Act, the President of ERO has also been obliged to develop, in cooperation with the President of OCCP and on the basis of the European Commission's guidelines, a set of rights of energy consumer. The document shall contain practical information on the rights of consumers of electricity and gaseous fuels. Electricity and gas suppliers, in turn, have been obliged to deliver to households a copy of the set of rights of energy consumer, and to assure public access to this document.

On 25 December 2014 the provisions of the Act of 30 May 2014 on Consumer Rights, which amended the rules governing the withdrawal from contract, came into force. The most important change from the point of view of energy and gaseous fuels consumers was the extension of time given for withdrawal from a distance or an off-premises contract concluded by consumers from 10 to 14 days.

Consumer right to conclude agreements guaranteeing honest and transparent conditions regarding receiving compensations and return of payments, the consumer right to file complaints and settle disputes

Pursuant to the provisions of the Energy Law Act, every energy undertaking involved in transmission or distribution of gaseous fuels or energy is obliged to ensure every customer and supplier, on the basis of equal treatment rule, provision of transmission or distribution services of these fuels or energy. The provision of transmission or distribution services of gaseous fuels or electricity is carried out on the basis of a contract that the undertaking is obliged to conclude. The undertaking is also obliged to conclude connection agreement with any entity applying for network connection, if technical and economical conditions for the connection and off-take exist. On the basis of the provisions of the Energy Law Act, the default supplier is obliged to provide complex service and conclude common service agreement (an agreement comprising the provisions of sales agreement and agreement for the provisions of distribution services), on the basis of equal treatment rule, with the customer of gaseous fuels or electricity in household, who does not exercise the right to choose supplier. Undertakings providing storage services of gaseous fuels and natural gas liquefaction are also obliged by law to conclude, with customers, the agreements on the basis of which these services shall be provided.

The provisions of the Energy Law Act specify the minimum catalogue of elements that should be regulated under the agreements. Network connection agreement should specify, inter alia, the connection deadline, the connection schedule and the expected date of concluding the contract on the basis of which gaseous fuels or energy will be provided.

Contract for the provision of distribution services should, in turn, define, i.a. the quality standards and conditions to ensure the reliability and continuity of supply of gaseous fuels or energy, as well as

technical parameters of gaseous fuels or energy, and the amount of discount for failure to meet these parameters and quality standards of customer service. Sales agreement or common service agreement shall also specify the parties to the contract, as well as include information on the consumer rights, including the way of filing complaints and settling disputes; the possibility of obtaining assistance in the event of failure, and the place and manner to familiarise oneself with the applicable tariffs, including charges for maintenance of the gas or electricity system.

Moreover, every agreement shall specify its duration and conditions of its termination. All terms and conditions of the agreement must be known to the customer in advance. Energy undertakings are obliged to immediately provide customers with drafts contracts (sales agreement, contract for the provision of transmission or distribution services of gaseous fuels or energy, common service agreement, contract for the provision of gaseous fuels storage service and contract for the provision of natural gas liquefaction service), or drafts of amendments to the concluded agreements, with the exception of changes in prices or fees specified in the approved tariffs. If the concluded contracts are to be amended, a written notice of the right to terminate the contract shall be sent together with the draft of amended agreement.

Household consumer who, until 24 December 2014, concluded an off-premises contract (i.a. at home, apartment or at any other place outside the undertaking's premises, e.g. on the street or during an organised show), may withdraw from it without providing reasons, within 10 days from the conclusion of the contract, by submitting an appropriate written statement to the energy undertaking with whom the agreement was concluded. This statement may be filed in person at the premises of the undertaking, or by post, preferably with return receipt requested, before the expiry of that period. The exception is the situation in which energy customer has not received written information about the right to withdraw from the contract. Then, the ten-day deadline period does not start running. In this case, the consumer may cancel the contract within 10 days from the date of obtaining information about the right of withdrawal. However, this may not serve as justification for consumer's withdrawal after the expiration of three-month term from the implementation of the contract. The situation is similar in case of distance contracts. In case of distance or offpremises contract concluded after 24 December 2014 household consumer may, within 14 days, withdraw from it without providing reasons, by submitting a written statement of withdrawal to the energy undertaking with whom the agreement was concluded. The period for withdrawal shall be deemed to have been observed if the statement is sent before its expiry. If the undertaking provides the possibility to file a statement of withdrawal electronically, consumer may withdraw from the contract by submitting a statement of withdrawal through the undertaking's website. In this case the undertaking is obliged to immediately send to the consumer, on a durable medium, acknowledgment of receipt of the statement of withdrawal from the contract filed electronically. In a situation where the consumer was not informed about the right of withdrawal, the right to withdraw from the contract expires after 12 months from the date of expiry of the 14-day deadline for withdrawal. However, if the consumer is informed by the undertaking about the right to withdraw from the contract before the aforesaid 12-month period, the deadline to withdraw from the contract expires after 14 days from informing consumer about this right.

Consumer right to obtain information about prices and charges applied by energy undertakings and, in case of their change, the right to obtain notice about any intention to introduce changes to the agreement and information about the right to withdraw from the agreement after receiving such notice

Pursuant to the provisions of the Energy Law Act, gas suppliers and electricity suppliers who supply final customers are obliged to publish on their websites and make publicly available at their premises, information on the current sales prices of gaseous fuels and energy, as well as terms and conditions of their application. At the same time, as it was indicated above, energy undertakings are obliged to promptly notify customers all draft changes that will be introduced to the concluded agreements, and along with the draft changes the undertakings are obliged to submit a written information about the right to terminate the agreement in case of lack of acceptance for the changed terms and conditions. Moreover, customers are informed by the supplier about every increase of prices or fee rates for the supplied gas or electricity specified in the approved tariffs. The supplier is obliged to give notice within one settlement period from day of the increase. Consumers should be notified in a transparent and understandable way.

Consumer right to choose the method of payment. Employing estimation methods guaranteeing accurate forecasts of the consumption (in case of settlements based on forecasts)

Enabling consumers to submit payments in various forms was subject of recommendation of the President of ERO, directed to the undertakings of the electricity sector (Good Practice collection). In practice, energy undertakings accept various payment methods, and consumers are entitled to choose the method, e.g. in the form of direct debit, bank transfer (including online), payment at the post offices or other designated places (e.g. chosen store chains), as well as possibility to pay invoices in cash at the customer service points of energy undertakings.

The issues connected with applying settlements based on forecasts are regulated by the Minister of Economy in the provisions of executive regulations to the Energy Law Act. In case of electricity settlements:

- settlement period for I-IV connection groups shall be not longer than two months, and for customers of the V connection group (household consumers) it cannot be longer than one year. Settlement periods determined in the tariff of an undertaking providing complex service are correlated with the settlement periods of the undertaking providing distribution service for its customers,
- if the settlement period is longer than one month, during this period fees for electricity and for transmission and distribution services of this energy can be charged in the amount determined on the basis of forecasted electricity consumption in this period, based on the volume of electricity consumption determined on the basis of readings of metering and billing equipment conducted in the analogical period of the preceding calendar year. In these forecasts significant changes in electricity consumption declared by the consumer are taken into account.

In case of settlements for off-taken gaseous fuels or provided services related to the delivery of these fuels, the undertaking conducts settlements based on the readings of measuring system, under settlement periods specified in the tariff. Settlement period for customers consuming gaseous fuels in the amount not higher than 110 [kWh/h] should not be longer than 12 months. Payments in the settlement periods can be charged in the amount determined on the basis of forecasted consumption of gaseous fuels, set according to the rules specified in the tariff. In these forecasts, undertaking shall take into account significant changes in gaseous fuels consumption reported by the consumer.

Consumer right to switch supplier within the three-week period and to receive final settlement with the previous supplier within 6 weeks

Pursuant to the provisions of the Energy Law Act, energy undertaking involved in transmission or distribution of gaseous fuels or energy, while applying objective and transparent rules ensuring equal treatment of system users, enables customer of gaseous fuels or energy connected to its network to switch supplier upon conditions and procedure specified in separate provisions.

Customer can withdraw from an agreement concluded for indefinite period without bearing any costs, by submitting written statement. However, this customer has to cover all the amounts due for the off-taken gaseous fuel or consumed energy, and provided transmission or distribution services of gaseous fuels or energy. An agreement concluded for a fixed-term can also be terminated by the customer, without him bearing any costs or compensations other than those stipulated in the agreement.

In case of households, legal provisions determine the notice period for contract termination, namely, such an agreement is terminated on the last day of the month following the month in which the customer's statement was received by the energy undertaking. This customer may also indicate a later date of contract termination.

Distribution system operators are obliged to implement the procedure of supplier switching no later than within 21 days from the day of notifying the relevant operator on the conclusion of a supply agreement with the new supplier.

Previous suppliers are obliged to make final settlement with customer no later than within 42 days from the day of supplier switching. In order to ensure real possibility to fulfil this obligation, system operator is obliged to provide the previous and the new supplier with data concerning the volumes of

gaseous fuels or energy consumed by the customer, within the period enabling the previous supplier to make settlements with the customer.

Consumer right to benefit from the transparent, simple and inexpensive procedures for investigating complaints with the use of out of court system. Institution of customer ombudsman as a support for customers and an alternative mechanism to investigate disputes

Since 10 April 2012 the Arbitration Court for Energy Matters by the Chamber of Industrial Energy and Energy Customers in Warsaw has been functioning. Moreover, there are also Municipal and District Consumer Ombudsmen in Poland, to whom customers can complain in individual cases, including the energy-related cases. The detailed information on matters dealt with by, and on the functioning of the Arbitration Court as well as on the scope of activity of Municipal and District Consumer Ombudsmen were described in the National Report 2012.

Household customers have also the possibility to apply to permanent consumer arbitration courts of the Trade Inspection. Since September 2013 competences of the arbitration courts, acting on the basis of the provisions of the Act of 15 December 2000 on the Trade Inspection, have been expanded to jurisdiction in respect of settling disputes arising from sales agreements, agreements for the provision of transmission or distribution services and common service agreements, as well as network connection agreements concluded between energy undertaking and household customer of gaseous fuel or electricity.

Moreover, sales agreement or common service agreement should comprise i.a. information about the way of filing complaints and settling disputes. At the same time, the supplier of gaseous fuels or electricity has been obliged to inform household consumer about his rights, including the way of filing complaints and settling disputes.

The competences of the President of ERO in respect of settling disputes were described in detail in point 5.2. However, it should be noted that the regulator settles disputes under administrative regime, which does not fully correspond to the alternative dispute settlement mechanisms.

Notwithstanding the above, it should be indicated that the tasks of the President of ERO include also carrying out information activities addressed to the electricity and gas consumers, including providing information via comprehensive information point, with an info-line to inform and promote the right to switch supplier. In order to fulfil this tasks, there is an Information Point for Fuel and Energy Customers within the structure of ERO, where customers can obtain information and advice regarding their rights (by phone, in writing, as well as electronically). Detailed information on the activity of the Point as well as contact data is posted on the ERO website.

In addition, the President of ERO in cooperation with the President of OCCP, based on the guidelines of the European Commission, drafted a set of energy consumer rights. The document contains practical information on the rights of electricity and gaseous fuels consumer. In order to ensure clear and transparent communication, facilitating consumer understanding of the issue, the document was divided into two parts: 1) Set of Rights of Electricity Consumer and 2) Set of Rights of Gaseous Fuels Consumer. At the same time, the content of both parts of the Set were consulted with the President of OCCP (the legal requirement of consultation) and organisations representing consumers, i.e. the Consumer Federation and the Association of Polish Consumers, as well as energy companies. Pursuant to the obligation imposed by the Energy Law Act, suppliers of gaseous fuels or electricity shall provide household consumer with copies of the Set of Energy Consumer Rights and ensure public access to that document.

Public service obligations

As a result of unbundling, on 1 July 2007, DSOs from the biggest vertically integrated undertakings, energy undertakings involved solely in distribution of electricity or gas, as well as gas or electricity trading companies had emerged on the electricity and gas markets.

The distribution undertakings unbundled from the biggest incumbent companies have been designated distribution system operators by the President of ERO. Currently, there are five big electricity DSOs whose networks are connected to the transmission grid, and one big gas DSO. The trading

companies ("incumbent suppliers"), on the other hand, were obliged, under the Energy Law Act, to carry out the tasks of default suppliers for consumers who have not decided to switch to a new supplier. Incumbent suppliers act as default suppliers until the designation of these suppliers by tender or under decision of the President of ERO. In 2014 no tender procedure was held. The vast majority of household consumers have concluded the so-called common service agreements, containing terms and conditions of both sales and transmission or distribution service agreements, with default suppliers. Furthermore, the default supplier is obliged to ensure the provision of complex service and conclude common service agreement on the basis of the equal treatment rule with a household consumer who does not exercise his right to switch supplier, and is connected to the network of an energy undertaking indicated in the default supplier's licence. It shall be underlined that the household consumer who terminates the common service agreement, within the notice period provided for in the agreement, cannot be charged by the default supplier with any additional costs other than those specified in the agreement.

Vulnerable customer protection

Novelisation of the Energy Law Act, which came into force in September 2013, introduced the definition of vulnerable customer of electricity and vulnerable customer of gaseous fuels, and established system of financial support for these customers. Definitions of vulnerable customers refer to the law on housing allowances. Financial support system provides for payment of energy allowances by municipalities to vulnerable customers, who were granted housing allowance (electricity customers) or a lump sum for the purchase of fuel (gaseous fuels customers) and who are, respectively, a party to the common service agreement or supply agreement of electricity or gas, and reside in the place of supplying this energy or fuels. Furthermore, a fixed annual limit of electricity consumption has been set, amounting to 900 kWh for a single-person household, 1 250 kWh for a household consisting of 2 to 4 persons and 1 500 kWh for household comprising at least 5 people. At the same time municipalities have been provided with funds for payment of the aforesaid allowances. These funds will come from the designated subsidy of the state budget. Minister responsible for economy announces, by 30 April each year, the amount of the energy allowance for the next 12 months. At the end of 2014, the amount of the energy allowance for household amounted to 11,36 PLN, 18,93 PLN or 15,77 PLN per month, depending whether the household consisted of 1, 2-4, or at least 5 persons, respectively.

Customers can also turn to energy undertakings for help in order to take advantage of the programs implemented within the framework of corporate social responsibility (CSR).

Ensuring access to consumption data

Pursuant to Article 5, paragraph 6c of the Energy Law Act, electricity suppliers are obliged to inform their customers about the volume of electricity consumed by these customers in the previous calendar year, about the place where information on average electricity consumption for a given energy group of connected customers is provided, as well as on the measures to improve energy efficiency and technical characteristics of energy efficient devices.

In addition, undertaking providing energy distribution service or energy supplier who provides the complex service, when issuing an invoice for the consumer shall, in a settlement attached to the invoice, provide information on, inter alia:

- the volume of electricity consumption in the settlement period, on the basis of which the amount due was calculated,
- the way of conducting the reading of the metering and billing system, whether it was physical or remote reading made by the authorised representative of the energy undertaking, or the reading made and reported by the consumer,
- the method of determining the value of electricity consumption in a situation when the settlement period is longer than one month and the first or the last day of the settlement period does not coincide with the dates of the readings of the metering and billing system, or if during the course of the settlement period there was a change in the prices or fees, or about the place where the information is available.

In case of gaseous fuels, undertakings conducting settlements of the off-taken gaseous fuels or services related to their supply, provide customers with the following information (depending on the type of settlements):

- readings of the metering and billing system at the beginning and the end of settlement period, expressed in [cubic metres],
- consumption of gaseous fuels in the period, expressed in [cubic metres],
- value of the conversion factor (for converting from [cubic metres] to [kWh]),
- consumption of gaseous fuels in the period, expressed in [kWh],
- whether the indicated consumption is the actual or forecasted consumption.

5.2. Dispute settlement

The President of ERO carries out his tasks in the scope of dispute settlement, provided for in Article 37 (1) of Directive 2009/72/EC and Article 41 (11) of Directive 2009/73/EC, pursuant to Article 8 of the Energy Law Act. According to the aforesaid provision, the President of ERO settles only disputes in matters connected with refusal to conclude network connection agreement, sales agreement, contract for the provision of transmission or distribution services of fuels or energy, agreement for the provision of transport services of natural gas, agreement for the provision of storage services, agreement for the provision of liquefaction services of natural gas and common service agreement, as well as unjustified stoppage in the supply of gaseous fuels or electricity. It should be noted that the above-mentioned scope of matters concerns enumerated cases related to agreements, and refers solely and exclusively to future contractual relations between energy undertakings and customers. The decisions of the President of ERO are subject to control of the Court of Competition and Consumer Protection.

In the scope of dispute settlement under Article 8, paragraph 1 of the Energy Law Act, issues related to the network connection refusal of renewable energy sources are of the highest gravity. Data on disputes concerning refusals to connect RES to the electricity grid are presented in the table below.

Table 19. Statistical data – disputes concerning refusals to connect renewable energy sources to the electricity grid in 2014

Number of applications for dispute settlement	Number of settled cases	Number of decisions stating that there is no legal obligation to conclude network connection agreement	Number of decisions stating that there is legal obligation to conclude network connection agreement	Number of decisions to discontinue the proceeding	Number of administrative settlements
27	33	12	3	17	1

Source: ERO.

Other disputes settled in 2014 by the President of ERO considered stoppages of supply, refusal to conclude sales agreement, refusal to conclude network connection agreement and refusal to conclude agreement for the provision of transmission or distribution services.

It should be underlined that the President of ERO lacks competence to settle disputes concerning the already concluded agreements. However, a significant number of disputes between customers and energy undertakings arise with regard to the concluded agreements, while such cases lay within the jurisdiction of general court.