
Subject: EFET¹ response to draft changes to the Energy Act

In reaction to the recently announced draft changes to the Energy Act, we would like to stress the impact of imposing a 100% exchange trading obligation on development of competition in Poland.

The proposed changes to Art. 49 envisage the imposition of an obligation for most power producers to sell all the generated power on an organised market. EFET believes that bilateral transactions should neither be limited nor prohibited in an attempt to increase transparency, which is already extensively reinforced through different reporting obligations imposed on both sides to any transaction, notably through the European Regulation on Wholesale Energy Market Integrity and Transparency (REMIT). Non-standard transactions concluded OTC are an important part of the market, promoting competition and liquidity, while the authorities are equipped with sufficient tools to prevent and penalize attempts of market abuse.

We also highlight the additional costs that the new obligation will create for market participants. Fees charged by exchanges and the related credit costs are often higher than those involved in dealing through a broker and may deter market entry by new and smaller traders. Bearing this in mind, preventing OTC transactions will prove counterproductive for liquidity in the longer term and will contribute to increasing power prices for consumers.

EFET would also like to highlight that it is crucial for the exchange obligations not to favour any particular trading venue. Size and importance of the Polish power market have already attracted new exchanges to enter the market and the new legal provisions should not in any way limit their ability to compete against each other.

Finally, we express our concerns about the pace, at which the new legislative changes are being imposed on the market. With merely two days to react to the draft proposal, stakeholders are left with no time to properly discuss its merits and considering the 14-day *vacatio legis*, and market participants are exposed to a serious threat of sudden changes to their business environment. In that sense, we urge the Ministry to extend the period of stakeholder involvement, especially when changes are made to such fundamental legal acts for the energy industry, as the Energy Act.

¹ The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and a competitive economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org.