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Subject: EFET¹ response to the consultation on the draft amendments to the Energy Law

EFET welcomes the opportunity to comment on the proposed changes to the Act of 10 April 1997 - Energy Law. We have gladly noted that some of the concerns we have previously expressed over the general functioning of the Polish natural gas storage system have been addressed in the draft. However, we have identified a number of areas, where we feel greater clarity is needed in order to properly assess the impact of the proposed changes on the market – you will find our remarks below. We also take this opportunity to highlight once more, that the storage obligations in place still effectively prevent gas imports to Poland and we see no prospects of improvement of the gas market functioning before the respective market entry barriers are addressed².

To begin with, we welcome the proposed provisions of art. 9g outlining the minimum scope of the Storage Service Rules (instrukcja ruchu i eksploatacji instalacji magazynowej) that are to be consulted upon and require approval of the Polish Regulatory Office. We appreciate a comprehensive approach for regulating the process of preparing, approving and defining the scope of the Storage Service Rules, with strong focus on stakeholder engagement. We believe that the proposed change will give the market participants the necessary reassurance, that the storage services will be provided to them in a non-discriminatory manner. This is a much-needed first step in the process of redesigning the Polish storage system and we encourage the Ministry to consider some of the other improvements we have suggested in our letter of 2nd July 2018³.

We have noted that the draft amendment envisages changes to the way the Energy Regulatory Office (URE) is organised. While we understand that the intention of having two Vice-Presidents appointed is to share the burden of the tasks currently assigned to the President, we are on the position that a clear distribution of responsibilities between the President of ERO and both Vice-Presidents is missing from the proposed regulation. Should the responsibilities of the President and his deputies overlap, we are also not clear about the intended way of reaching a consensus over contentious matters. Therefore, we would welcome the clear identification of Vice-Presidents' responsibilities and providing appropriate decision-making arrangements in the revised article 21 subpoint 4. Otherwise, the powers of Vice Presidents'

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² Please refer back to our previous letters on the subject of [27th June 2017](#) and [3rd July 2017](#) for further reference.

³ [EFET letter on Polish storage capacity accessibility](#)

may remain purely theoretical, or – on the contrary – the Energy Regulatory Office may be facing an unnecessary impasse in the decision-making process.

More importantly, we do not understand the intent of the amendment in art. 21 subpoint 5ca. transferring the right to appoint Vice-Presidents onto the Ministry if the President fails to choose them out of the shortlisted candidates within three months. Such amendment read in conjunction with the provisions of the proposed subpoint 2n of art. 21 and the issues we've raised in the previous paragraph, may be raising concerns over NRA's independence, without offering any clear benefits. We would therefore suggest deleting these provisions from the draft.

We remain at your disposal should any of our remarks require further clarification.