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# **CAPACITY MARKET RULES**

text with amendments arising from Update Sheet No. RRM/Z/3/2021 and RRM/Z/4/2021  
(2021-11-10)

## RECITALS

These Capacity Market Rules have been developed pursuant to Articles 82 and 83 in conjunction with Article 93 (1) of the Capacity Market Act of 8 December 2017, in implementation of the Act. The objective of the Capacity Market Rules is to define detailed terms and conditions for the operator's cooperation with other capacity market participants in compliance with the principle of equal treatment and non-discrimination of capacity providers and in a manner that ensures the correct and uniform performance of capacity obligations by all capacity providers in a given period of delivery. Having regard to the matters defined in Article 83 of the Capacity Market Act of 8 December 2017 and insofar as not provided for in the Act and the executive regulations thereto, the Capacity Market Rules govern:

- 1) the rights and obligations of the operator and applicants under general certification and its procedure;
- 2) the rights and obligations of the operator and capacity providers under the main certification and capacity auction processes and their procedure, forming in this respect the operator-defined auction terms and conditions within the meaning of the Civil Code,
- 3) the rights and obligations of the parties to capacity agreements, forming in this respect, together with the template capacity agreement annexed to the Capacity Market Rules, the operator-defined civil-law model agreement within the meaning of the Civil Code;
- 4) the conclusion of capacity agreements as a result of transactions between capacity providers as part of secondary market trading in the capacity obligation;
- 5) the operator's coordination with the settlement body with regard to the performance of the settlement body's obligation to pay remuneration to capacity providers for the performance of the capacity obligation;
- 6) payment to capacity providers of the bonus defined in the Capacity Market Act of 8 December 2017;
- 7) the operator's coordination with distribution system operators to the extent necessary to ensure the correct operation of the capacity market, in particular with regard to the verification of the correct performance of capacity obligations by capacity providers;
- 8) other matters to be provided for in the Capacity Market Rules in accordance with Article 83 of the Capacity Market Act of 8 December 2017.

Having regard to the wide range matters subject to regulation by the Capacity Market Rules and their diverse character, the Capacity Market Rules are not of a uniform legal nature. It relates directly both to contractual relations arising from capacity agreements and to relations of a different nature, related to the performance of the capacity market processes provided for by the Capacity Market Act of 8 December 2017.

For these reasons, the provisions of the Capacity Market Rules should be read in conjunction with those of the Capacity Market Act of 8 December 2017 and the executive regulations thereto, in relation to which the provisions of the Capacity Market Rules are of a strictly complementary nature.

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## 1. List of abbreviations and definitions of terms

### 1.1. List of abbreviations

- 1) ENTSO-E: – European Network of Transmission System Operators for Electricity;
- 2) FCM – Financial Commitment Milestone;
- 3) IRIESD – Instruction of Distribution System Operation and Maintenance;
- 4) IRIESP – Instruction of Transmission System Operation and Maintenance;
- 5) PPS – Polish Power System – power system referred to in Article 3(23) of the Energy Law within the territory of the Republic of Poland;
- 6) MAF – Mid-Term Adequacy Forecast;
- 7) SCM – Substantial Completion Milestone;
- 8) DSO – Distribution System Operator referred to in Article 3(25) of the Energy Law;
- 9) DSO<sub>n</sub> – Distribution System Operator whose distribution grid does not have a direct connection to the transmission grid, in accordance with IRIESP;
- 10) DSO<sub>c</sub> – Distribution System Operator whose distribution grid has a direct connection to the transmission grid, in accordance with IRIESP;
- 11) TSO – company under the business name of Polskie Sieci Elektroenergetyczne S.A. with its registered office in Konstancin-Jeziorna, entered in the National Court Register - Register of Entrepreneurs kept by the District Court for the capital city of Warsaw in Warsaw, 14th Commercial Division of the National Court Register under KRS number 0000197596, share capital of PLN 9,605,473.000,00 fully paid up, tax identification number NiP: 526-27-48-966, being the operator within the meaning of the Capacity Market Act of 8 December 2017, acting within the territory of the Republic of Poland as transmission system operator within the meaning of the Energy Law Act on the basis of Decision of the President of the Energy Regulatory Office No. DRE-4710-3(7)/2013/2014/4988/ZJ of 16 June 2014;
- 12) President of ERO – President of the Energy Regulatory Office;
- 13) Settlement Body – the entity referred to in Article 61(2) of the Capacity Market Act.

### 1.2. Definitions of terms

- 1) pre-auction – auction of rights to offer capacity obligation in capacity auctions for capacity market units consisting of physical cross-border units;
- 2) capacity obligation price – capacity obligation price excluding value-added tax (net price);
- 3) price taker – a capacity market unit in respect of which the capacity provider may submit exit bids with exit price not higher than the maximum offer price set for price takers;
- 4) price maker – a capacity market unit in respect of which the capacity provider may submit exit bids with exit price not higher than the maximum auction price;
- 5) delivery of electricity to the grid – delivery of electricity to the grid, devices or installations of other entities, being at the same time a flow of electricity measured at the metering point;

- 6) Directive 2010/75/EU – Directive 2010/75/EU of the European Parliament and the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control);
- 7) Directive 2015/2193/EU – Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants;
- 8) rightholder – a register user authorised to grant rights to other register users to access data regarding the physical and capacity market units represented by a given entity;
- 9) working day – the period from 0:00 to 00:00 hours on any day which is not a Saturday or a legal public holiday;
- 10) financial commitment milestone – state in which the requirements referred to in Article 52(1) of the Capacity Market Act have been achieved;
- 11) physical demand side response unit without internal energy source – a physical demand side response unit consisting of end-user's devices and installations which does not include an electricity generating unit or energy storage;
- 12) physical demand side response unit with internal energy source – a physical demand side response unit consisting of end-user's devices and installations which does include an electricity generating unit or an energy storage which is not a separate physical unit;
- 13) Civil Code – Civil Code Act of 23 April 1964;
- 14) complete power supply system – assignment of all metering points between a physical unit and transmission or distribution grid not owned by the owner of the unit or with the connected end-users;
- 15) delivery point – delivery point (MD), referred to in IRiESP;
- 16) net available capacity – net maximum capacity reduced by planned or unplanned capacity losses;
- 17) independent study – a document drawn up in accordance with Section 7.4.5 of the Capacity Market Rules for the purpose of fulfilling the obligation described in Article 19(2)(2), Article 19(3)(4), Article 20(4)(2) or Article 52(2)(3) of the Act;
- 18) commissioning of a physical generating unit – achieving the state in which the operation of a physical generating unit in accordance with its intended use is formally, legally and technically permissible;
- 19) bidder – a register user authorised to bid during a capacity auction and to report transactions in the secondary market;
- 20) substantial completion milestone – state in which the requirements referred to in Article 52(2) of the Act have been achieved;
- 21) capacity market processes – the following as described in the Act: pre-auction, general certification, certification for the main auction, certification for additional auctions, capacity auction, secondary market, performance of capacity agreement, performance of capacity obligation, settlement of capacity obligation;
- 22) consumption of energy from the grid – consumption of energy from the grid, devices or installations of other entities, being at the same time the flow of electricity measured at the metering point;
- 23) energy consumption point – energy consumption point (PPE), referred to in IRiESD;

- 24) Rules – these Capacity Market Rules;
- 25) register – capacity market register, referred to in Article 55 of the Act;
- 26) GDPR – Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);
- 27) generator output circuit – set of technical devices used to deliver electrical power to the grid, with the assigned metering points;
- 28) the Act – Capacity Market Act of 8 December 2017;
- 29) Value Added Tax Act – Value Added Tax Act of 11 March 2004;
- 30) RES Act – Renewable Energy Sources Act of 20 February 2015;
- 31) Energy Law Act – Energy Law Act of 10 April 1997;
- 32) Environmental Protection Law Act – Environmental Protection Law Act of 27 April 2001;
- 33) register user – a natural person holding an account in the register;
- 34) physical unit owner – an entity (person) for whom the power system operator has determined the terms of connection for a physical unit, or being a party to a grid connection agreement, an agreement for the provision of transmission or distribution services relating to a given physical unit, being at the same time the entity entitled to control a physical unit for the purpose of its operation;
- 35) applicant – owner of the physical unit or planned demand side response unit or alternatively an entity authorised by him;
- 36) emission volume – an average annual emission volume equal to no more than 350 kg of carbon dioxide from fossil fuels per 1 kW of the installed electric capacity referred to in Article 22(4) of Regulation (EU) 2019/943 of the European Parliament and of the Council of June 5, 2019 on the internal market for electricity;
- 37) power to heat ratio – the quotient of the annual gross electricity production, expressed in MWh, and the annual gross heat production, expressed in MWh;
- 38) high-efficiency cogeneration – high-efficiency cogeneration within the meaning of the Energy Law Act;
- 39) grid demand – demand for capacity of customers connected to the transmission and distribution grids as well as directly to devices, installations or grids of other energy companies, increased by losses in the transmission and distribution grid, reduced by capacity directly supplied by generation sources to customers omitting the grid belonging to other energy companies.

## **2. General**

### **2.1. Legal basis for the Rules**

- 2.1.1. The Rules have been developed by the operator under Article 82 of the Act.
- 2.1.2. The Rules have been drawn up in Polish.

### **2.2. Personal scope of the Rules**

- 2.2.1. The Rules are binding for the capacity market participants.

### **2.3. Entry of the rules into force and the amendment procedure**

- 2.3.1. The Rules, as well as any amendments hereto, shall be subject to approval by the President of ERO, in coordination with the minister in charge of energy, by way of administrative decision.
- 2.3.2. The Rules and any amendments hereto shall enter into force 30 calendar days after the date of notification by the TSO of the adoption of new Rules or their amendment by a final decision to approve the Rules or its amendment.
- 2.3.3. Amendments to the Rules shall be binding for the capacity market participants, also insofar as they concern the method or terms for the performance of the concluded capacity agreement, subject to Section 2.3.4.
- 2.3.4. Amendments to the Rules, insofar as they concern the method or conditions for the performance of the concluded capacity agreement, as well as the adoption of new Rules, may not cause a change in the net price of the capacity obligation, a change in the duration of the capacity obligation, a change in the capacity obligation volume – set out in the concluded capacity agreement – and they may not introduce contractual penalties for the non-performance or incorrect performance of the capacity agreement not provided for at the date of entering into the capacity agreement. In the event new Rules are adopted, if they cause a change in the method or terms for performance of the concluded capacity agreement, or where an amendment to the Rules in whole or in part concerns the method or terms for the performance of the capacity agreement in force at the date of entry into force of an amendment to the Rules, the capacity provider may terminate the capacity agreement, save that:
  - 1) a notice of termination of the capacity agreement may be given no later than 30 calendar days after the date of notification by the TSO of the adoption of new Rules or an amendment to the Rules, referred to in Section 2.3.2, and
  - 2) in the event an effective notice of termination of the capacity agreement is given, the capacity agreement shall be terminated effective as of the date of entry into force of new Rules or an amendment to the Rules that provided a basis for termination of the capacity agreement.
- 2.3.5. The adoption of new Rules, if they do not cause a change in the method or terms for the performance of a concluded capacity agreement, or an amendment to the Rules insofar as it does not concern the method or terms for the performance of a concluded capacity agreement, shall not provide a basis for termination of the capacity agreement by notice given by the capacity provider. In particular, any amendments concerning the operation of the register, including the manner of giving notices through the capacity provider, and amendments concerning the terms of cooperation between the DSO and the TSO, shall not provide a basis for termination of the capacity agreement by notice given by the capacity provider.
- 2.3.6. The entry into force of new Rules adopted by final decision approving new Rules shall render the existing Rules null and void.
- 2.3.7. The TSO shall publish these applicable Rules on its website.
- 2.3.8. An amendment to the TSO's register data, including its registered office address or amount of share capital, shall not necessitate an amendment to the Rules.

- 2.3.9. A change of the TSO corporate image system (e.g. logo), including the TSO's register data used in forms of documents contained in appendices to the Rules, shall be taken into account in applicable template documents with no need to amend the Rules.

### 3. Detailed certification schedule

#### 3.1. General certification

- 3.1.1. The TSO shall publish on its website page the schedule of a given general certification no later than 14 calendar days before its commencement date.
- 3.1.2. General certification shall include the following processes:
- 1) filing applications for entry in the register,
  - 2) verification of applications by the DSOc,
  - 3) consideration of applications by the TSO,
  - 4) rectification of formal defects or deficiencies of applications,
  - 5) complaint procedure,
  - 6) entering units into the register or refusal to enter them into the register.
- 3.1.3. A detailed schedule of the processes referred to in Section 3.1.2 (1) – (6) is provided in Sections 3.1.4 – 3.1.10.
- 3.1.4. The applicant shall be required to file an application for entry in the register no sooner than the date of commencement of general certification and no later than the 10th working day of the certification, subject to the case referred to in Section 4.3.5. Applications for entry into the register filed at other times shall not be considered.
- 3.1.5. If an application is found to fail to meet the requirements set out in Article 12 (2) or (5) of the Act, or in the Rules, the TSO shall request the applicant, through the register, to rectify formal defects or deficiencies of the application, specifying such defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be conveyed by notice sent automatically to the register user's email address.
- 3.1.6. If the applicant, while having been requested by the TSO to do so, has not rectified formal defects or deficiencies of the application for entry in the register within the time limit set by the TSO, the TSO shall refuse to enter the unit into the register, informing the applicant thereof without delay, by making a relevant entry in the register. Information on refusal of entry shall also be conveyed by notice sent automatically to the register user's email address.
- 3.1.7. In case of the TSO's decision refusing to enter a physical unit or planned demand side response unit into the register or to make an entry in the register with data different from those provided in the application for entry in the register, the applicant shall have the right to file a complaint within 4 working days of the making of the relevant entry. The TSO shall consider a complaint within 7 calendar days of its submission.
- 3.1.8. The complaint procedure referred to in Section 3.1.7 shall end no later than the certification completion date set by the TSO in accordance with Section 3.1.1.
- 3.1.9. The application for entry in the register may be withdrawn by the register user within the time limit specified in Section 3.1.4.
- 3.1.10. A summary list of time limits under general certification is provided in the table below:

Item	Process name	Time limit
1	Filing applications for entry in the register	By the 10th working day after the commencement date of a given general certification, subject to the case referred to in Section 4.3.5
2	DSOc verification referred to in Section 6.3.3.3	31 calendar days from the commencement date of a given general certification
3	Consideration of the application by the TSO	Not later than the completion date of a given general certification

4	Rectification of formal defects or deficiencies of an application for entry in the register	No later than the time limit set by the TSO, which is not less than 3 working days from receipt of notice
5	Filing a complaint against refusal to enter a physical unit into the register	4 working days after entry refusal information is posted in the register
6	Filing a complaint against a register entry having been made with different data from the content of the application for entry in the register	4 working days after entry refusal information is posted in the register
7	Consideration of a complaint against a refusal to enter a physical unit into the register or a complaint against a register entry having been made with different data from the content of the application for entry in the register	7 calendar days from complaint filing

### 3.2. Certification for the main auction and additional auctions

- 3.2.1. The TSO shall publish on its website page the schedule of a given certification for the main auction and a schedule for a given certification for additional auctions no later than 14 calendar days before the commencement date of the certification concerned.
- 3.2.2. The following processes are distinguished as part of main certification (main auction and additional auctions):
- 1) filing applications for entry in the register,
  - 2) consideration of applications by the TSO,
  - 3) rectification of formal defects or deficiencies of applications,
  - 4) complaint procedure,
  - 5) issuing a certificate to a capacity market unit or refusal of such certificate.
- 3.2.3. A detailed schedule of the processes referred to in Section 3.2.2 (1) – (5) is provided in Sections 3.2.4 – 3.2.10.
- 3.2.4. The capacity provider shall be required to file an application for certification for capacity auction no sooner than the date of commencement of the relevant certification and no later than the 10th working day of the certification, subject to the case referred to in Section 4.3.5. Applications for certification filed at other times shall not be considered.
- 3.2.5. If an application is found to fail to meet the requirements set out in Article 15, Article 16 (1) or (2), Article 19 or Article 20 of the Act, or in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the application, specifying such defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be conveyed by notice sent automatically to the register user's email address.
- 3.2.6. If the capacity provider, while having been requested by the TSO to do so, has failed to correct or complete the application for certification, in particular has not rectified formal defects or deficiencies of the application for certification within the time limit set by the TSO, the TSO shall refuse to issue the certificate, informing the capacity provider thereof without delay, by making a relevant entry in the register. Information on refusal to issue a certificate shall also be conveyed by notice sent automatically to the register user's email address.
- 3.2.7. In case of the TSO's decision refusing to issue a certificate or if a certificate is issued with parameters deviating from those referred to in the application for certification, the applicant shall have the right to file a complaint within 4 working days of the making of the relevant entry. The TSO shall consider the complaint within 7 calendar days of the submission thereof.

- 3.2.8. The complaint procedure referred to in Section 3.2.7 shall end no later than the completion date of the relevant main certification stated by the TSO in accordance with Section 3.2.1.
- 3.2.9. The application for certification may be withdrawn by the register user within the time limit specified in Section 3.2.4.
- 3.2.10. A summary list of time limits in the main certification process is provided in the table below:

Item	Process name	Time limit
1	Filing applications for certification	By the 10th working day after the commencement date of a given main certification, subject to the case referred to in Section 4.3.5
2	Consideration of the application by the TSO	Not later than the completion date of a given main certification
3	Rectification of formal defects or deficiencies of the application for certification	No later than the time limit set by the TSO, which is not less than 3 working days from receipt of notice
4	Filing a complaint against refusal to issue a certificate	4 working days after information on refusal to issue the certificate is posted in the register
5	Filing a complaint against a certificate that has been issued with parameters that differ from those requested in the application for certification	4 working days after the certificate is issued
6	Consideration of a complaint against a refusal to issue a certificate or a certificate that has been issued with parameters that differ from those requested in the application for certification	7 calendar days from complaint filing

## **4. Capacity market register (register)**

### **4.1. Purpose and scope of operation and general requirements**

- 4.1.1. The TSO shall maintain the register in electronic form. The register shall be maintained by the TSO in order to ensure:
- 1) integrity and durability of recorded data,
  - 2) protection from unauthorised access,
  - 3) protection from malicious software,
  - 4) availability of the register for capacity market participants.
- 4.1.2. The register is a communication tool for capacity market participants with regard to capacity market processes and the related performance of obligations as described in the Act.
- 4.1.3. The register shall be open to capacity market participants, subject to the provisions on the protection of classified information or other legally protected information.
- 4.1.4. Operations performed in the register shall be recorded in such a manner as to allow for the identification of the author of each operation and its time of entry.
- 4.1.5. The register users shall be only natural persons acting for and on behalf of capacity market participants. Unless otherwise provided for in the Act or in the Rules, all declarations required in accordance with the provisions of the Act or the Rules shall be submitted on behalf of a capacity market participant by a register user authorised to represent the former in accordance with Section 4.1.6.
- 4.1.6. The register user is deemed to be authorised to represent the entity (person) on whose behalf it acts, if it:
- 1) acts on its own behalf, or
  - 2) has demonstrated its authorisation by submitting a power of attorney document drawn up in the form of Appendix 4.3 to the Rules, signed by the represented entity being a natural person, or on behalf of the represented entity by persons entered into the relevant register as authorised to represent this entity, subject to Section 4.1.7, or
  - 3) has demonstrated his authorisation by submitting an extract from the relevant register confirming the power of sole representation of the entity concerned,
- subject to Sections 4.1.8 and 4.1.32.
- 4.1.7. The terms of access to the register by representatives of the settlement body, the DSOc and the TSO:
- 1) are governed by the provisions of the Rules
  - 2) allow the condition referred to in Section 4.1.4 to be met.
- 4.1.8. If the register is used by representatives of the settlement body, the DSOc and the TSO, it is assumed that the persons – if designated by the entities they represent – have the relevant authorisation to represent these entities, including access to information made available in the register, and statements made by the register shall constitute statements by these entities.
- 4.1.9. An entity (person) shall be deemed to have the right to dispose of a physical unit for the purposes of capacity market processes exclusively in the case where:
- 1) the entity (person) is the owner of the physical unit concerned, or
  - 2) the entity (person) has the authorisation to dispose of the physical unit for the capacity market processes, granted by the owner of the physical unit concerned, in the form of Appendix 4.1, Appendix 4.2 or Appendix 4.4 to the Rules, signed by the owner of a given physical unit being a natural person, or on behalf of the owner of a given physical unit by persons entered into the relevant register as authorised to represent the owner of a given physical unit, subject to Section 4.1.33.

- 4.1.10. If the physical unit owner grants the authorisations referred to in Section 4.1.9 (2), with respect to the same physical unit, to different entities (persons), for different delivery years, each time when granting the authorisation to a new entity (person), it shall present a declaration indicating full delivery years for which the granted authorisations apply.
- 4.1.11. The authorisation referred to in section 4.1.9 (2) to dispose a given physical unit for a given delivery year may be granted only to one entity (person).
- 4.1.12. In using the register, the register users referred to in Section 4.1.5, other than those representing the settlement body, the DSOc or the TSO, may have the additional role of rightholder or bidder in relation to the entity (person) they represent, provided that the rightholder role may be played by only one register user for one entity (person).
- 4.1.13. The roles referred to in Section 4.1.12 shall be used in the register do define the authority of individual register users to perform specific activities.
- 4.1.14. The register user may request to be assigned with the rightholder or bidder role at any time, it being possible to make a request for the assignment of both roles simultaneously.
- 4.1.15. Requests for the assignment of the rightholder or bidder role shall be submitted only through the register.
- 4.1.16. The request for assignment of the rightholder or bidder role shall be accompanied by a power of attorney drawn up in the form of Appendix 4.3 to the Rules.
- 4.1.17. The request for the assignment of the rightholder or bidder role shall be considered by the TSO within 14 calendar days of its submission.
- 4.1.18. The rightholder or bidder role may be assigned as part of verification of the application for entry in the register in the course of general certification or application for certification in the course of main certification on the basis of the power of attorney attached to the application.
- 4.1.19. The authorisation referred to in section 4.1.6 (2), may be demonstrated, to the extent other than acting as the rightholder or bidder, as part of submission of an application for assignment of the rightholder or bidder role or other applications, declarations or information submitted to the TSO through the register as part of capacity market processes on the basis of a previously submitted power of attorney. In such a case, the TSO, when accepting applications or declarations or information submitted after prior demonstration of the relevant authorisation, may not require the register user to provide the power of attorney document again.
- 4.1.20. The establishment of a new register user with the bidder role in relation to an entity shall require submission through the register, of a relevant power of attorney drawn up in the form of Appendix 4.3. to the Rules, provided that the new register user with the bidder role must be appointed no later than 7 calendar days before the next capacity auction in which he intends to play this role.
- 4.1.21. Canceling a user's role as a bidder in relation to a given entity shall require the submission, through the register, of information on the expiry of power of attorney for the register user. This information may be submitted by another register user with the bidder or a rightholder role in relation to a given entity..
- 4.1.22. Canceling the user's right to view the applications, information and representations submitted by the user or canceling the power of attorney referred to in section 4.1.6 (2) requires submission, through the register, of information on the expiry of the power of attorney for this register user, by the user with the rightholder role for a given entity.
- 4.1.23. The power of attorney to act as rightholder shall expire, with no need for the entity (person) to file a separate representation of intent, upon submission through the register of a power of attorney to act as rightholder, granted by the entity (person) to another person.
- 4.1.24. Register users other than those defined in Section 4.1.25 shall have the following rights:
  - 1) to submit applications and declarations and perform other activities in accordance with the scope of the powers held, as well as to review the applications, documents and declarations it submitted– each register user,

- 2) to submit all representations in the course of the pre – auction or the capacity auction, and to report transactions in the secondary market, as well as to view its own declarations and the related entries in the register – register users with the bidder role,
  - 3) to submit the information referred to in Section 4.1.21 – register users with the bidder or rightholder role,
  - 4) to review data concerning physical units and capacity market units held by a given entity – register users with the rightholder role or users to whom the rightholder has granted relevant rights,
  - 5) to grant rights to review the data referred to in subsection (4) – register users with the rightholder status.
- 4.1.25. Register users representing the DSOc, the settlement body or the TSO shall have dedicated sets of rights that allow them to inspect their data and perform operations in the register to the extent necessary for the fulfilment of the entities’ tasks specified in the Act and in the Rules. The detailed scope of rights of each register user representing the entities referred to in the first sentence shall be adapted to the scope of operations performed in the register and it is not regulated by the provisions of the Rules.
- 4.1.26. For one entity (person) being an applicant or capacity providers, it shall be possible to designate:
- 1) multiple register users with the bidder role, who will be authorised to make any representations in the course of the pre-auction or the capacity auction, and to report transactions in the secondary market on behalf of such entity (person),
  - 2) one register user with the rightholder role, who will be authorised to view all applications, declarations, documents and information concerning the entity (person), and grant rights to view such applications and information to other register users.
- 4.1.27. Personal data held in the register shall be processed by the TSO in accordance with the provisions of the GDPR and the Personal Data Protection Act of 10 May 2018. Personal data shall be processed for the purposes set out in the Act. The controller of the personal data held in the register shall be the TSO. Any personal data held in the register may be made available only to parties duly authorised to access such data under the law.
- 4.1.28. Register users may use the information contained in the register, including personal data, only in accordance with the purpose of the register and may not use that information contrary to the law.
- 4.1.29. Provision of personal data by entering it in the form fields in the register, marked as required, shall be necessary for the use of the register.
- 4.1.30. The TSO shall keep the natural persons whose data are held in the register informed of their rights in accordance with the GDPR and the provisions of the Personal Data Protection Act of 10 May 2018.
- 4.1.31. Register users acting on behalf of a given entity (person) shall be entitled to review applications, declarations and information concerning this entity (person) submitted to the TSO through the register, including also to review the documents attached thereto, to the extent resulting from the rights granted to them, referred to in point 4.1.24.
- 4.1.32. In order to demonstrate its powers to act on behalf of a capacity market participant, the register user is obligated to submit, along with the power of attorney, an extract from the relevant register confirming the powers of persons signing the power of attorney granted to the user to represent the capacity market participant. If entries in the relevant register do not confirm the powers of persons signing the power of attorney to act on behalf of the capacity market participant, or do not confirm the powers of the person referred to in Section 4.1.6 (3), to act on behalf of the capacity market participant, the register user submits other documents confirming such powers, in particular those documenting the submission of the application for entering the change into the relevant register. The register user may submit the power of attorney in original – if granted in an electronic form – or as a copy certified in accordance with Section 4.4.10. The foregoing is also applicable to other documents presented by the register user in order to demonstrate the powers to act on behalf of the capacity market participant.

- 4.1.33. The entity (person) authorised to dispose of the physical unit for the capacity market processes is obligated to submit, along with the authorisation referred to in Section 4.1.9 (2), an extract from the relevant register confirming the powers of persons signing the powers to act on behalf of the owner of the physical unit granted to this entity (person). If entries in the relevant register do not confirm the powers of persons signing the authorisation to act on behalf of the owner of a given physical unit, the entity (person) authorised to dispose of the physical unit for the capacity market processes shall submit other documents confirming such powers, in particular those documenting the submission of the application for entering the change into the relevant register. The register user acting on behalf of the entity (person) authorised to dispose of the physical unit for the capacity market processes may submit the authorisation in original – if granted in an electronic form – or in a copy certified in accordance with Section 4.4.10. The foregoing is also applicable to other documents presented by the register user in order to demonstrate the powers of persons signing the authorisation referred to in Section 4.1.9 (2).
- 4.1.34. Whenever the provisions of the Rules refer to the obligation to submit an excerpt from the relevant register in order to confirm specific data, and the data contained in this register are outdated, it is required to submit the documents constituting the basis for amending the entries in the relevant registers or their copies certified in accordance with Section 4.4.10. If the data entered in the Central Registration and Information on Business or the National Court Register available on-line are up-to-date and consistent with the actual and legal status, the obligation to submit an extract from the relevant register shall be waived. In such a case, the TSO shall verify the data based on the information from the Central Registration and Information on Business or the National Court Register available on-line.
- 4.1.35. In the event of an amendment to the Rules including an amendment to the templates of Appendices 4.1, 4.2 or 4.3, the powers of attorney and the authorisations granted before the date of entry into force of the amendment to the Rules, in accordance with the previous templates, shall remain in force to an extent in which they include the powers to perform a specific activity.

## **4.2. General rules**

- 4.2.1. The register shall make it possible for the register user to generate, retrieve and record an electronic document confirming the entering in the register of all data and information related to the management of the capacity market, which is entered pursuant to the provisions of the Rules or the Act.
- 4.2.2. The register shall enable register users to view data made available under Article 55 (6) of the Act and other data relating to the register user concerned or to the entity he represents, save that the register may not enable such data to be copied or an extract thereof to be generated that could be retrieved and recorded by the register user.
- 4.2.3. The TSO shall not be held responsible for any technical problems, including any delays in data transmission not attributable to the TSO.
- 4.2.4. Any technical problems related to the operation of the register, attributable to the TSO, shall be immediately reported to administrators by email at the address published on the TSO's website.
- 4.2.5. The register shall enable the register users to designate selected elements of applications for entry in the register, applications for main certification and applications to substitute a planned demand side response unit as confidential business information. Information and data designated this way shall be processed and made available in compliance with the provisions on the protection of classified information or other legally protected information.

## **4.3. Terms of access and use of the register**

- 4.3.1. The register shall be maintained in Polish and it shall be accessible via a tab on the TSO's website.
- 4.3.2. Access to the register may be suspended in the following cases:

- 1) conducting planned tests and upgrades, or
  - 2) events of force majeure or consequences of a failure.
- 4.3.3. Planned tests and upgrades shall be carried out solely outside auction sessions and outside the time for the submission of applications under general certification and main certification.
- 4.3.4. The TSO shall post on its website information on:
- 1) the time of commencement and end of planned suspension of access to the register;
  - 2) the possible need to extend the duration of planned suspension of access to the register;
  - 3) the expected time to restore access to the register in the event of failure unless already removed.
- 4.3.5. In the event of force majeure or failure of the register during a period intended for the submission of applications for entry in the register or applications for main certification, the TSO:
- 1) may extend the time for the submission of applications for the certification concerned – if the downtime has not exceeded 24 hours, or
  - 2) shall be required to extend the time for the submission of applications for the certification concerned – if the downtime has exceeded 24 hours,
- provided that extension of the time for the submission of applications shall not cause an extension of the duration of the certification concerned.
- 4.3.6. In the cases referred to in Section 4.3.5 (1) or (2), the TSO shall provide on its website, as soon as possible after the cessation of the force majeure or failure removal, information on the period by which the time for the submission of the application concerned has been extended.
- 4.3.7. The register shall be maintained in such manner as to allow register users to use it remotely by means of web browsers. The list of currently supported web browsers shall be published on the TSO's website.
- 4.3.8. In order to use the register, it shall be necessary to have a computer with Internet access.
- 4.3.9. The use of the register may also require the register user to:
- 1) install additional components or software specified by the TSO;
  - 2) have the system administrator rights for the purposes of installation of components and software referred to in subsection (1).
- 4.3.10. Where the use of the register requires the installation, on the register user's side, of additional components or software, the TSO shall post a list of such components and software on its website, including the addresses from which they can be downloaded.
- 4.3.11. The register user shall be required to duly protect hardware and software it uses to access the register from unauthorised use, by following good practices for physical and ICT protection of computer hardware, including at least through the use of:
- 1) exclusively legal software, its current updates and installation of system patches in compliance with the producers' recommendations;
  - 2) up-to-date software preventing the development of malicious code (anti-virus, anti-spam) and firewalls;
  - 3) up-to-date versions of website browsers;
  - 4) measures (e.g. passwords) protecting computers from unauthorised third-party access.
- 4.3.12. A person in possession of information necessary to log into the system as a register user shall be deemed to be acting as the register user, with all consequences thereof for himself and the entity (person) the register user represents.
- 4.3.13. Access to the register allowing active participation in the capacity market processes shall require an account to be established in the register.

- 4.3.14. The following shall be necessary to establish an account:
- 1) active email address;
  - 2) active mobile phone number;
  - 3) devices and data that enable a qualified electronic signature to be affixed – for register users other than those representing the settlement body, the DSOc or the TSO.
- 4.3.15. The following shall be necessary for logging into the register:
- 1) active email address;
  - 2) active mobile phone number;
- and knowledge of the password assigned to the account.
- 4.3.16. Devices and data that enable a qualified electronic signature to be affixed are necessary for applications and statements to be filed by register users other than those representing the settlement body, the DSOc or the TSO.

#### **4.4. Statements made by register users**

- 4.4.1. Statements, documents and applications filed by the TSO through the register shall be valid only if made in the electronic form referred to in Article 78<sup>1</sup> of the Civil Code. The electronic form is not allowed to be substituted with another form unless the Rules, including the template capacity agreement, provide otherwise.
- 4.4.2. The electronic form requirement referred to in Section 4.4.1 shall not apply to statements, documents, information and data provided through the register by the settlement body, the DSOc and the TSO. At the same time, the electronic form requirement shall not apply to statements, documents, information and data transferred between the DSOc and the TSO.
- 4.4.3. The TSO's statements and the TSO's notices shall be sent to capacity market participants in electronic form through the register unless the Rules, including the template capacity agreement, explicitly provide otherwise. Entries in the register made by the TSO shall be equivalent to making a statement or serving a notice. The TSO shall also transmit through the register documents addressed to capacity market participants unless the Rules, including the template capacity agreement, explicitly provide otherwise.
- 4.4.4. Where it is not possible at a given moment in time for the TSO to make a statement by an entry in the register, a statement in a different form shall be allowed, under rules of general application, subject to any time limits stipulated in the Act and in the Rules.
- 4.4.5. To use the register, each entity shall be required to appoint at least one register user. Entries made in the register shall be effective irrespective of whether the obligation mentioned in the previous sentence has been met.
- 4.4.6. Notices communicated by the TSO in accordance with the provisions of the Rules by email shall be of a purely informative nature and shall be sent to email addresses of the register users.
- 4.4.7. If the Rules require a document to be submitted using a form or in accordance with a template, and the template or form constitutes an appendix to the Rules, submission of a document using a different form or in accordance with a different template shall be considered a formal deficiency.
- 4.4.8. All statements, notices and documents filed with the register by the TSO through the register shall be deemed delivered to capacity market participants upon their entry in the register.
- 4.4.9. All statements, notices and documents filed with the register by a register user shall be deemed delivered to the TSO upon their entry in the register.
- 4.4.10. Signing documents filed with the register with a qualified electronic signature shall be equivalent to declaring they are true to the originals or certified copies of such documents.
- 4.4.11. Whenever the TSO, in accordance with the provisions of the Rules, sets a deadline for the performance of a specific activity by the applicant or the capacity provider, the TSO may,

extend this deadline prior to its expiry. The TSO shall immediately communicate this fact to the applicant or the capacity provider, respectively, by entering the relevant information in the register. The foregoing is not applicable to the deadlines specified by the Act or the secondary legislation introduced on its basis.

## **5. Participation of foreign capacity in the capacity market**

### **5.1. Participation of interconnector physical units**

- 5.1.1. General certification shall not be performed for interconnector physical units.
- 5.1.2. For each power system of a European Union Member State connected directly to the PPS, it shall be possible to create not more than one capacity market unit consisting of interconnector physical units for a given delivery year.
- 5.1.3. One capacity market unit may consist of one or more interconnector physical units.

### **5.2. Participation of physical cross-border units**

#### **5.2.1. General rules**

- 5.2.1.1. General certification shall not be performed in regard to physical cross-border units.
- 5.2.1.2. In the course of main certification, the capacity provider shall substitute the bid selected in the pre-auction with a capacity market unit consisting of physical cross-border units, on the terms set forth in Section 5.2.3. Substitution of a selected bid with a capacity market unit shall be confirmed by an entry in the register and the issue of a certificate authorising participation in the capacity auction.

#### **5.2.2. Pre-auctions**

- 5.2.2.1. A pre-auction shall be held separately for each of the zones referred to in Article 6 (6) of the Act and separately for the next certification for the main auction and the next certification for additional auctions.
- 5.2.2.2. Participants of the pre-auction shall participate in it by placing a capacity obligation bid in the capacity market.
- 5.2.2.3. The date and time of commencement and closure of each pre-auction shall be announced by the TSO on its website and in the register no later than 7 calendar days before the pre-auction concerned.
- 5.2.2.4. A bid submitted in a pre-auction shall contain:
  - 1) identification data of the pre-auction participant including:
    - a) the name of the entity or the first name and surname for a natural person;
    - b) identifier equivalent to the Polish KRS (commercial register) number or the PESEL (personal identification) number or the passport number (where there is no PESEL number) of the participant;
    - c) registered office or place of residence and address of the participant;
    - d) contact details: correspondence address, e-mail address, telephone number;
  - 2) bid price in PLN per kW;
  - 3) offered capacity volume expressed in MW, not less than 2 MW;
  - 4) unit carbon dioxide emission factor expressed in g/kWh, determined in accordance with Section 7.4.2.1 (9) (d);
  - 5) information on bid divisibility;
  - 6) bank SWIFT code and bank account number in IBAN format to which the collateral shall be returned to the pre-auction participant.
- 5.2.2.5. The bids submitted in the pre-auction shall be drawn up in Polish or in English if the register has such a functionality.
- 5.2.2.6. Pre-auction bids shall be submitted by the auction participant in electronic form, affixed with a qualified electronic signature.

- 5.2.2.7. The TSO shall not consider any bids submitted before and after the bid submission period.
- 5.2.2.8. The time applicable to the submission of bids in a pre-auction shall be the time currently applicable within the territory of the Republic of Poland.
- 5.2.2.9. The bid selection criteria are set out in Article 9 (4)-(6) of the Act. In the case of bids with the same price and with the same carbon dioxide emission factor, the bids shall be ranked according to the exact time of bid submission with an accuracy of 1 second.
- 5.2.2.10. If a participant in the pre-auction, in the course of one of such pre-auctions, submits one or more bids covering the capacity volume exceeding the permissible volume resulting from the collateral established by the participant, the valid bids of a given participant shall be selected by arranging them from the cheapest to the most expensive one, and then by accepting the bids starting from the cheapest until the capacity volume resulting from the established collateral is reached. Whenever several bids have the same price, they shall be ranked first according to the consecutive lowest unit carbon dioxide emission factor and then according to the exact time of submission of the bids as recorded in the register.
- 5.2.2.11. If the last bid to be selected along with the bids referred to in Section 5.2.2.10 makes the total volume of the capacity offered exceed the permissible volume resulting from the collateral established by the pre-auction participant, and this bid is:
- 1) divisible – the bid is accepted in the part corresponding to the difference between the permissible volume resulting from the collateral established and the sum of the capacity volumes in the remaining selected proposals;
  - 2) indivisible – the bid is rejected.
- 5.2.2.12. In the case referred to in Section 5.2.2.11 (2), another bid shall be considered by applying the provisions of Section 5.2.2.10, respectively.
- 5.2.2.13. Published results of a pre-auction shall contain a list of bids submitted in the course of the pre-auction including:
- 1) designation of the entity that has submitted the bid;
  - 2) volume of the bid submitted;
  - 3) bid price;
  - 4) information on bid acceptance or rejection.
- 5.2.2.14. The TSO shall publish the results of the pre-auction on its website within the time limit specified in the Act.

### 5.2.3. **Replacing a pre-auction bid with a capacity market unit**

- 5.2.3.1. A bid selected in the course of a pre-auction shall be substituted, in the main certification relevant to the particular pre-auction, with a capacity market unit consisting of physical cross-border units.
- 5.2.3.2. Pre-auction bids shall be substituted with capacity market units in the course of main certification.
- 5.2.3.3. The main certification under which an accepted pre-auction bid can be substituted shall be conducted in accordance with the provisions of Section 7.
- 5.2.3.4. The application for main certification for a capacity auction concerning a capacity market unit replacing an accepted pre-auction bid shall be submitted in Polish or English, if the register has such a functionality.
- 5.2.3.5. One accepted pre-auction bid can be substituted only with one capacity market unit meeting the conditions set forth in Article 16 (1) and (2) of the Act, consisting of:
- 1) one or more physical cross-border generating units, or
  - 2) one or more physical cross-border demand side response units

located in one zone referred to in Article 6 (6) of the Act to which a given pre-auction related.

- 5.2.3.6. Data necessary to substitute an accepted pre-auction bid with a capacity market unit shall be stated by the capacity provider in the application for certification in accordance with Sections 7.4.2.11 and 7.4.2.15.
- 5.2.3.7. A capacity market unit created in place of an accepted pre-auction bid may not consist of physical units with a carbon dioxide emission factor higher than that stated in the bid, in accordance with Section 5.2.2.4 (4).
- 5.2.3.8. Effective substitution of a pre-auction bid with a capacity market unit shall take place upon acceptance of the application for certification and the TSO issuing a certificate for the unit.
- 5.2.3.9. In the event an accepted pre-auction bid has not been substituted with a capacity market unit or the capacity obligation volume declared in the main certification, which the capacity provider will offer for the capacity market unit in the capacity auction, is lower than the capacity volume resulting from the pre-auction bid, the TSO shall retain an appropriate part or the whole of the collateral established.

## **6. General certification**

### **6.1. Participants and subject of certification**

- 6.1.1. The owner of an existing generating physical unit referred to in Article 11 of the Act shall be required to declare the unit for each general certification. The declaration referred to above should be understood as submission of an application for physical unit entry in the register in each general certification, meeting all the requirements specified in or arising from Article 12 of the Act and from the Rules.
- 6.1.2. General certification shall be performed by the TSO in coordination with the DSOc.
- 6.1.3. In the course of general certification, DSOs shall cooperate with the DSOc with regard to physical units having metering points in the grids of those DSOs, as set forth in Section 18.
- 6.1.4. In general certification, the applicant shall file an application for entry of a physical unit or a planned demand side response unit in the register.
- 6.1.5. One applicant may file applications for entry in the register for more than one physical unit or planned demand side response unit.
- 6.1.6. The applicant may submit an application for entry in the register for any physical unit or planned demand side response unit, save that the submission of an application for physical units other than those specified in Section 6.1.1 shall be voluntary.

### **6.2. Rules for defining units in general certification**

#### **6.2.1. General rules**

- 6.2.1.1. In general certification, the applicant shall file an application for entry in the register of:
  - 1) a physical unit of one of following types:
    - a) existing physical generating unit,
    - b) planned physical generating unit,
    - c) physical demand side response unit without internal energy source,
    - d) physical demand side response unit with internal energy source,
  - or
  - 2) planned demand side response unit.
- 6.2.1.2. A place in the grid, equipment or installation referred to in the definition of the metering point is understood exclusively as a place in the grid, equipment or installation where flowing electricity is measured or calculated for the purposes of settlement operations between parties to the electricity transmission or distribution agreement, concerning the electricity taken from the grid or fed into the grid.
- 6.2.1.3. A metering point shall be defined by:
  - 1) the delivery point for the transmission grid, or
  - 2) the energy consumption point for the distribution grid,subject to Section 6.2.1.4.
- 6.2.1.4. One code of the delivery point or energy consumption point may represent more than one metering point if it is possible, on the basis of that code, to unambiguously identify all metering points to which it refers, and verification of the completeness of the codes of delivery points or codes of energy consumption points shall make it possible to check the completeness of metering points concerning a given physical unit situated in the grid of a given TSO or DSO.
- 6.2.1.5. In the case referred to in Section 6.2.1.4, if one code of a delivery point or energy consumption point refers to metering points in generator output circuits from more than one generating physical unit, it is possible to indicate the code in general certification as designation of metering points, in accordance with Section 6.3.2.1 (6) or (7), save that in

order to obtain the confirmation referred to in Article 19 (1) (2) of the Act, for the unit concerned, individual codes of delivery points or codes of energy consumption points shall be required to be assigned to metering points at least in the generator output circuits, in accordance with Section 21.13 (4), Section 21.14 (5) or Section 21.15 (4), respectively.

- 6.2.1.6. A physical unit shall constitute a generating physical unit if:
- 1) according to the provisions of the electricity transmission or distribution agreement the physical unit is authorised to deliver electricity to the grid or
  - 2) so provided by the connection conditions issued or
  - 3) so provided by a submitted application for connection conditions – for a planned generating physical unit for which no connection conditions have yet been issued.
- 6.2.1.7. The physical unit shall constitute a physical demand side response unit if:
- 1) the connection conditions issued refer to equipment, installations or grids that will take electricity from the grid, or
  - 2) according to the provisions of the electricity transmission or distribution agreement, the physical unit is authorised for consumption of energy from the grid.
- 6.2.1.8. Where to circumstances referred to in Sections 6.2.1.6 and 6.2.1.7 arise simultaneously, a physical unit may be declared for general certification as a generating physical unit or a physical demand side response unit. The relevant decision shall be taken by the applicant on a case-by-case basis at the stage of filing the application for entry in the register.
- 6.2.1.9. One physical unit forming part of a capacity market unit for a given delivery year may be only a generating physical unit or a physical demand side response unit.

## 6.2.2. **Generating physical unit**

- 6.2.2.1. A generating physical unit shall be classified by:
- 1) the type of unit in combination with its function in the system;
  - 2) the technology of energy production and
  - 3) the basic source of primary energy used, and additional source of primary energy, if any.
- 6.2.2.2. The following types of generating physical units are distinguished under the classification referred to in Section 6.2.2.1 (1):
- 1) electricity generator;
  - 2) electricity and heat generator (cogeneration);
  - 3) energy storage.
- 6.2.2.3. The following types of energy production technology are distinguished under the classification referred to in Section 6.2.2.1 (2):
- 1) electrochemical battery;
  - 2) compressed or liquid air battery;
  - 3) flow battery;
  - 4) hybrid renewable energy source plant;
  - 5) kinetic energy reservoir (flywheel);
  - 6) photovoltaic module;
  - 7) fuel cell;
  - 8) Organic Rankine Cycle;

- 9) Stirling engine;
- 10) reciprocation engine;
- 11) supercondenser;
- 12) simple cycle gas turbine;
- 13) condensing steam turbine;
- 14) extraction condensing steam turbine;
- 15) back-pressure steam turbine;
- 16) back-pressure condensing steam turbine;
- 17) air turbine or expander;
- 18) wind turbine;
- 19) water turbine;
- 20) combined cycle gas turbine;
- 21) hybrid cycle system;
- 22) steam turbine system;
- 23) other.

6.2.2.4. The following types of primary energy sources are distinguished under the classification referred to in Section 6.2.2.1 (3):

- 1) other biogas;
- 2) agricultural biogas;
- 3) biogas from wastewater treatment plants;
- 4) biogas from thermal processes;
- 5) biogas from landfills;
- 6) other biomass;
- 7) forest biomass;
- 8) biomass from energy crops;
- 9) liquid biofuels for energy purposes;
- 10) heat from external technological processes;
- 11) geothermal energy;
- 12) tidal energy;
- 13) solar radiation energy;
- 14) wind energy – onshore turbines;
- 15) wind energy – offshore turbines;
- 16) coke-oven gas;
- 17) other combustible gas;
- 18) blast-furnace gas;
- 19) gas from gasification of other substances;
- 20) gas from coal or lignite gasification;
- 21) high-methane natural gas in liquid or gaseous state,;
- 22) coal mine methane in liquid or gaseous state;
- 23) nitrogen-rich natural gas in liquid or gaseous state;

- 24) industrial or municipal waste;
- 25) diesel oils;
- 26) heavy fuel oils;
- 27) light fuel oils;
- 28) nuclear fuel;
- 29) propane or butane or their mixtures in liquid or gaseous state;
- 30) compressed or liquid air;
- 31) peat;
- 32) lignite;
- 33) coal for power generation;
- 34) hard coal coke;
- 35) hydro – run-of-river with reservoir;
- 36) hydro – flow-of-river;
- 37) hydro – reservoir with pumping;
- 38) hydro – run-of-river with reservoir and pumping;
- 39) hydrogen;
- 40) other non-renewables;
- 41) other renewables.

6.2.2.5. In case of a generating physical unit, the existence of a complete power supply system shall be demonstrated together with indication of:

- 1) metering points in generator output circuits of the unit concerned;
- 2) metering points in auxiliary and general service power systems of the generating unit concerned – defined as metering points at which the quantity of electricity is measured, drawn from the grid by auxiliary and general service systems of the generating unit, insofar as they are not supplied with electricity generated in that unit;
- 3) metering points in power supply systems of equipment consuming electricity for their own use, i.e. for purposes other than connected with the generation, transmission and distribution of electricity – defined as metering points at which the quantity of electricity is measured, drawn from the grid by power supply systems of equipment consuming electricity for purposes other than connected with the generation, transmission and distribution of electricity, insofar as they are not supplied with electricity generated in that unit;
- 4) metering points in power supply systems of directly connected customers.

6.2.2.6. In the situation where multiple generating units have common or electrically connected systems referred to in Section 6.2.2.5 (2), (3), (4), metering points related to those systems and metering points in generator output circuits of all physical units shall be specified for all physical units to which the points relate, provided that for each physical unit a unique set of metering points in generator output circuits must be specified.

6.2.2.7. Subject to Sections 6.2.2.8 – 6.2.2.9, each generating unit shall constitute a separate generating physical unit insofar as it has separate electrical power outputs together with metering points assigned to them. If a metering point is assigned to an generator output circuit from more than one generating unit, such units shall constitute a single generating physical unit.

6.2.2.8. A combined cycle gas turbine, unless it is part of a physical demand side response unit, shall constitute a single generating physical unit.

6.2.2.9. A collector system that can generate power and heat in the cogeneration process may constitute a single generating physical unit. The collector system shall consist of

generating units in which boilers and turbo-generators are connected by a common collector.

- 6.2.2.10. A collector system being a single generating physical unit that forms a part of the capacity market unit for which the capacity agreement is concluded must not be entered in the register as separate physical units.
- 6.2.2.11. Declaration of a physical unit as a generating physical unit in the application for entry in the register referred to in Section 6.3 shall operate as the applicant's statement that the circumstances arise, referred to in Section 6.2.1.6.
- 6.2.2.12. In the case referred to in Section 6.2.2.9, the TSO shall be authorised in the course of general certification to:
  - 1) request the applicant to provide additional information confirming the correctness of the statement referred to in Section 6.2.2.9, and
  - 2) refuse to enter the physical unit concerned into the register as a generating physical unit if the applicant fails to present the information referred to in subsection (1) or the information presented does not confirm the correctness of the statement referred to in Section 6.2.2.9.

### 6.2.3. **Physical demand side response unit**

- 6.2.3.1. A physical demand side response unit can be a physical demand side response unit without internal energy source or a physical demand side response unit with internal energy source.
- 6.2.3.2. Declaration of a physical unit as a physical demand side response unit in the application for entry in the register referred to in Section 6.3 shall operate as the applicant's statement that the circumstances arise, referred to in Section 6.2.1.7.
- 6.2.3.3. In the case referred to in Section 6.2.3.2, the TSO shall be authorised in the course of general certification to:
  - 1) request the applicant to provide additional information confirming the correctness of the statement referred to in Section 6.2.3.2, and
  - 2) refuse to enter the physical unit concerned into the register as a physical demand side response unit if the applicant fails to present the information referred to in subsection (1) or the information presented does not confirm the correctness of the statement referred to in Section 6.2.3.2.

### 6.2.4. **Planned demand side response unit**

- 6.2.4.1. The applicant may submit an application for entry in the register for any planned demand side response unit that will be substituted on the terms set forth in Section 10 with one or more physical demand side response units.

## 6.3. **Application for entry in the register**

### 6.3.1. **Rules for the submission of applications**

- 6.3.1.1. An application for entry in the register may be submitted by the applicant only through the register.
- 6.3.1.2. The applicant shall submit a separate application for entry in the register for each unit referred to in Section 6.2.1.1.
- 6.3.1.3. In the case of multiple submissions of an application for entry in the register in one general certification for the same physical unit or planned demand side response unit by the same applicant, only the latest application shall be considered and any prior applications shall not be considered.

- 6.3.1.4. Whenever multiple applications for entry in the register as part of a single general certification for the same physical unit are submitted by different applicants, only the applications for entry in the register submitted by the applicant as the first one among the applicants having demonstrated the appropriate powers to use this unit shall be considered. In relation to the applications submitted by other applicants, the TSO shall refuse the entry in the register.
- 6.3.1.5. Submission of an application for entry in the register shall be confirmed by a relevant entry in the register. The register user of the relevant applicant shall receive a notice of entry of the above-mentioned information into the register, sent to his e-mail address.

### 6.3.2. **Content of the application for entry in the register**

6.3.2.1. The application for entry in the register shall contain:

- 1) identification data of the physical unit and its owner, including:
  - a) unit name;
  - b) name of the entity or the first name and surname for a natural person;
  - c) PESEL number or the passport number (where there is no PESEL number) for a natural person;
  - d) KRS, NIP, REGON numbers and a current extract from KRS (or full extract from KRS if the current extract is insufficient to confirm the powers of the persons signing authorisations/power of attorney/statements) or the entry number and relevant register (body maintaining the register) of the state of incorporation of the company and the current extract from the register for foreign companies;
  - e) REGON and NIP numbers of all partners in a partnership and passport number for partners in a partnership who are natural persons and do not have REGON and NIP numbers – for a partnership;
  - f) REGON and NIP numbers – for a natural person carrying on business;
  - g) registered office or place of residence and address of the owner;
  - h) contact details: correspondence address, e-mail address, telephone number;and optionally:
  - i) unit code, if previously assigned by the register;
  - j) code A1-1, assigned by the TSO for the purposes of planning and operational management of the PPS operation;
- 2) identification data of the entity authorised to dispose of a physical unit for the purposes of capacity market processes, including:
  - a) the name of the entity or the first name and surname for a natural person;
  - b) PESEL number or the passport number (where there is no PESEL number) for a natural person;
  - c) KRS, NIP, REGON numbers and a current extract from KRS (or full extract from KRS if the current extract is insufficient to confirm the powers of the persons signing authorisations/power of attorney/statements) or the entry number and relevant register (body maintaining the register) of the state of incorporation of the company and the current extract from the register for foreign companies;
  - d) REGON and NIP numbers of all partners in a partnership and passport number for partners in a partnership who are natural persons and do not have REGON and NIP numbers – for a partnership;
  - e) REGON and NIP numbers – for a natural person carrying on business;
  - f) registered office or place of residence and address;
  - g) contact details: correspondence address, e-mail address, telephone number;

- h) authorisation of the unit owner to dispose of a physical unit for the purposes of capacity market processes, i.e. authorisation submitted in accordance with Section 4.1.9 (2);
- 3) power of attorney of the register user to represent the applicant, submitted in accordance with Section 4.1.6 (2);
- 4) address of the physical unit or numbers of registered plots on which the physical unit is or will be sited;
- 5) technical parameters of the physical unit including:
  - a) for generating physical units – gross maximum capacity;
  - b) net maximum capacity;
  - c) for physical demand side response units consisting of generating units – gross maximum capacity of all sources and the current gross maximum capacity of the largest source,
  - d) for cogeneration units – power to heat ratio;
  - e) type of physical unit in accordance with the classification defined in Section 6.2.2.2 or 6.2.3.1;
  - f) for generating physical units and generating units forming part of a demand side response unit – the technology of energy production, in accordance with the classification set out in Section 6.2.2.3, provided that where a generating physical unit is composed of generating units with more than one technology of energy production, the technology of energy production shall be demonstrated for the technology with the largest share in the net maximum capacity of the generating physical unit concerned;
  - g) for generating physical units and generating units forming part of the demand side response unit – the basic source of primary energy, in accordance with the classification set out in Section 6.2.2.4, and where a physical unit uses more than one source of primary energy – information on all sources of primary energy with an energy share in electricity generation of not less than 2%; the basic source of primary energy is the source with the greatest energy share in the primary energy balance of the generating physical unit, and the additional source of primary energy is the next one after the primary source;
  - h) for physical units which include an energy storage facility:
    - storage capacity expressed in MWh,
    - efficiency of a single charge/discharge cycle expressed in %,
    - maximum charging power expressed in MW,
    - maximum discharging power expressed in MW;
- 6) for physical units connected to the distribution grid – a list of metering points forming a complete power supply system of the unit concerned, including:
  - a) information on the number of energy consumption points;
  - b) list of energy consumption point codes unique to the country, including assignment to the DSO, in accordance with the DSO's codification, forming a complete power supply system of a given physical unit from the distribution grid;
  - c) indication of the relevant DSOc and its branch in whose area the energy consumption point is situated;
  - d) where a unit is situated in the DSO's area – indication of the relevant DSO;
  - e) for generating physical units – designation of the type of each metering point, in accordance with Section 6.2.2.5;

- f) for physical demand side response units – indication of metering points relating to customers connected to a given physical unit – if such metering points exist;
- and optionally:
- g) information on the location of each energy consumption point, including electrical substation name, electrical substation code name, bay number and switchgear voltage level;
- 7) for physical units connected to the transmission grid – a list of metering points forming a complete power supply system of the unit concerned, including:
- a) information on the number of delivery points;
- b) list of delivery point codes assigned by the TSO in accordance with the transmission service agreement.
- c) for generating physical units – designation of the type of each metering point, in accordance with Section. 6.2.2.5;
- d) for physical demand side response units – indication of metering points relating to customers connected to a given physical unit – if such metering points exist;
- and optionally:
- e) information on the location of each delivery point, including electrical substation name, electrical substation code name, bay number and switchgear voltage level.
- 8) for a generating physical unit – operation plan for the 5 consecutive calendar years, starting from the year following the year of general certification, covering:
- a) net maximum capacity in each month, expressed in MW, taking into account the balance at the beginning of each month, save that where the application concerns units generating power and heat, with an annual power to heat ratio of less than 7.2, the maximum capacity in a given month shall be deemed to be the net maximum capacity at the maximum expected heat output achievable with the use of all possible technological systems, including combined systems such as heat accumulator or water boilers;
- b) for cogeneration units with an annual power to heat ratio of less than 7.2, run-of-river power plants and power plants driven by wind, solar, geothermal or tidal energy – the assumed net electricity production volume in each month, expressed in MWh, defined as the expected gross electric output (measured on the generator terminals) in a given month less electricity consumption for electricity and heat generation, transmission or distribution purposes;
- c) the expected total planned unavailability time in each month, expressed in hours, where, in the case of generating physical units consisting of more than one generating unit, unavailability is defined as the weighted average time of planned unavailability of the whole physical unit in a given month, calculated according to the following formula:

$$N = \frac{\sum_{i=1}^m (N_i \cdot P_i)}{\sum_{i=1}^m P_i}$$

where:

- $N$  – means the expected total unavailability time of the physical unit, in hours,
- $N_i$  – means the expected total unavailability time of generating unit  $i$  forming part of the physical unit, in hours,
- $P_i$  – means the net maximum capacity of generating unit  $i$  forming part of the physical unit, in MW,
- $m$  – means the number of generating units forming the physical unit;

- 9) information on the intention to declare a given physical unit for participation in:

- a) the next main auction or one or more additional auctions, including the indication of quarters, or
    - b) statement declaring no intention to participate in the next main auction or additional auctions,

subject to the effects referred to in Sections 7.1.5 and 7.1.6;
  - 10) for a planned generating physical unit – indication of the delivery year to which the main auction relates and in which the unit is to participate.
- 6.3.2.2. Where a physical unit has metering points assigned to it both in the distribution grid and in the transmission grid, the applicant shall state, in the application for entry in the register, the information referred to in Section 6.3.2.1 (6) and (7).
- 6.3.2.3. In the case the application for entry in the register is submitted for a planned generating physical unit, the applicant shall submit the information referred to in Section 6.3.2.1, to the best of the available knowledge, provided that with regard to the information referred to in Section 6.3.2.1 (6) and (7) it shall be necessary to indicate the relevant power system operator within whose territory the unit is located, and the name(s) of the electrical substation(s).
- 6.3.2.4. Subject to Section 6.3.2.5, the gross maximum capacity and net maximum capacity referred to in Section 6.3.2.1 (5) (a), (b) and c) is defined as:
- 1) gross maximum capacity and net maximum capacity of a given physical unit for the calendar year preceding general certification – for an existing generating physical unit;
  - 2) expected gross maximum capacity and net maximum capacity of a given physical unit for the year in which the unit will be commissioned – for a planned generating physical unit;
  - 3) expected maximum value of temporary reduction in electricity consumption of a given physical unit in the delivery year affected by the main certification for participation in which the unit will be declared – for a physical demand side response unit.
- 6.3.2.5. For the purpose of calculation of the gross maximum capacity of a generating physical unit, the test-approved maximum active power at which a generating physical unit can operate at nominal parameters for a period not shorter than 4 consecutive hours, without adversely affecting the service life of the unit is defined as the maximum average hourly value, as declared by the applicant, of the sum of active power values measured on the terminals of generators forming part of the physical unit concerned, calculated taking into account Section 6.3.2.6, which is confirmed or can be confirmed by:
- 1) results of measurements of the quantity of electricity generated, or
  - 2) relevant calculation of the quantity of electricity fed into the grid, or
  - 3) the equipment manufacturer's rated parameters or data, or
  - 4) results of simulations taking into account the availability of primary energy.
- 6.3.2.6. The gross maximum capacity volume of a generating physical unit shall factor in:
- 1) the parameters of equipment and installations forming part of the physical unit concerned,
  - 2) permanent structural losses or limitations of the capability to generate electricity,
  - 3) characteristics of primary energy availability,
  - 4) considerations arising from continuous operation at the gross maximum capacity for a period of not less than 4 consecutive hours, without adversely affecting the service life of the unit.
- 6.3.2.7. The power to heat ratio referred to in Section 6.3.2.1 (5) (d) is defined as:
- 1) the value of the power to heat ratio calculated for a given calendar year preceding general certification – for an existing generating physical unit;

- 2) the expected value of the power to heat ratio calculated for the first full year after commissioning – for a planned generating physical unit.
- 6.3.2.8. The technology of energy production referred to in Section 6.3.2.1 (5) (f) is defined as:
- 1) The technology of energy production applied in the calendar year preceding general certification – for an existing generating physical unit;
  - 2) the technology of energy production expected to be applied in the first full year after commissioning – for a planned generating physical unit.
- 6.3.2.9. The basic source of primary energy and additional source or primary energy referred to in Section 6.3.2.1 (5) (g) is defined as:
- 1) the sources of primary energy applied in the calendar year preceding general certification – for an existing generating physical unit;
  - 2) the expected sources of primary energy to be applied in the first full year after commissioning – for a planned generating physical unit.
- 6.3.2.10. The application for entry in the register of a planned demand side response unit shall contain:
- 1) details of the entity that will act as capacity provider in relation to the capacity market unit to be established with the use of the unit to which the application refers, including:
    - a) the name of the capacity provider or the first name and surname for a natural person;
    - b) PESEL number or the passport number (where there is no PESEL number) of the capacity provider – for a natural person;
    - c) KRS, NIP, REGON numbers and a current extract from KRS (or full extract from KRS if the current extract is insufficient to confirm the powers of the persons signing authorisations/power of attorney/statements) or the entry number and relevant register (body maintaining the register) of the state of incorporation of the company and the current extract from the register for foreign companies;
    - d) REGON and NIP numbers of all partners in a partnership and passport number for partners in a partnership who are natural persons and do not have REGON and NIP numbers – for a partnership;
    - e) REGON and NIP numbers – for a natural person carrying on business;
    - f) registered office or place of residence and address of the applicant;
    - g) contact details: correspondence address, e-mail address, telephone number;
  - 2) power of attorney of the register user to represent the applicant, submitted in accordance with Section 4.1.6 (2);
  - 3) the information referred to in Section 6.3.2.1 (9);
  - 4) the planned total maximum capacity of all physical demand side response units that will form the planned demand side response unit concerned, and
  - 5) business plan of the planned demand side response unit, containing information on:
    - a) the estimated number of physical demand side response units that will substitute the unit;
    - b) the approximate highest and lowest capacity of a single unit among physical demand side response units that will substitute the unit;
    - c) the planned location of physical units;
    - d) the expected methods of achieving capacity demand reductions;
    - e) the expected technological systems of the physical units forming the unit;

- f) the current progress of work and projects related to the acquisition of physical demand side response units;
- g) the planned schedule and ways of acquiring physical demand side response units;

drawn up in the form of Appendix 6.1 to the Rules.

### 6.3.3. **The evaluation process and evaluation criteria for applications for entry in the register**

6.3.3.1. Applications for entry in the register shall be considered by the TSO. In verifying applications, the TSO shall cooperate with the relevant DSOc.

6.3.3.2. Consideration of the application for entry in the register shall involve the verification of:

- 1) the data and information submitted for completeness;
- 2) submission of the required documents confirming the authorisation of the applicant and the register user filing the application;
- 3) submission of appendices to the application using forms or templates required by the Rules;
- 4) compliance of the data submitted with the register data of each entity;
- 5) conformity of the technical and location data submitted with the information available to the TSO and the relevant DSOs;
- 6) correctness of designation of the relevant DSOc and its branch for each metering point – in the case referred to in Section 6.3.2.1 (6);
- 7) correctness of designation of the relevant DSO – in the case referred to in Section 6.3.2.1 (6) (d);
- 8) completeness of the power supply system of a given physical unit;
- 9) correctness of assigned metering point codes;
- 10) the occurrence of cases of multiple applications for entry in the register having been submitted for the same physical unit.

6.3.3.3. In the case of an application for entry in the register for a physical unit connected or planned to be connected to the distribution grid, the relevant DSOc shall participate in the verification referred to in Section 6.3.3.2 by:

- 1) verifying the information referred to in Section 6.3.2.1 (4) – if the physical unit concerned is connected or planned to be connected only to the distribution grid;
- 2) verifying the information referred to in Section 6.3.2.1 (6), having regard to the conditions referred to in Section 6.3.3.2 (6) – (9), provided that confirmation of completeness of the power supply system of a given physical unit concerns only that DSOc's grid and the grids of DSOs cooperating with the TSO through the DSOc concerned;
- 3) indicating the connected load for all metering points of a given physical unit with regard to the DSOc's grid and the grids of the DSOs cooperating with the TSO through the DSOc concerned; where the connected load is not defined for locations identical with metering points, the DSOc shall indicate its connected load volumes including the identification of the locations for which the load has been defined, and in the absence of connection power value this parameter shall not be verified.
- 4) optional provision of additional information that can support the TSO in the decision-making process for entering the physical unit into the register,

as set forth in Section 18.

6.3.3.4. In considering the application for entry in the register, in the case of units for which the declaration referred to in Section 6.3.2.1 (9) (a) is made, the TSO or relevant DSOc may additionally verify the compliance of metering/billing systems, in the delivery year, with the

technical requirements referred to in Section 21, necessary for correct settlements related to the metering points specified for the physical unit concerned.

- 6.3.3.5. The verification referred to in Section 6.3.3.4, if performed and successfully completed, for all metering points of a given physical unit, shall be treated at the main certification stage as meeting the requirements referred to in Section 7.4.2.1 (4) or (5) or Section 7.4.2.12 (5) or 6) for the physical unit concerned. Otherwise, the provisions of Section 7.4.2.16 shall apply.
- 6.3.3.6. In verifying applications for entry in the register, the TSO and relevant DSOs shall rely on data and information: provided with the application, held in their own systems, provided to the DSO by relevant DSOs or information obtained from publicly available reliable and verifiable sources.
- 6.3.3.7. Subject to Section 6.3.4, the TSO shall refuse to enter a physical unit or planned demand side response unit into the register in the case the application for entry in the register fails to comply with the requirements set forth in Article 12 (2) or in Article 12 (5) of the Act, in particular where:
- 1) the data submitted is found to be incomplete or incorrect;
  - 2) appendices to the application have been submitted using forms or templates inconsistent with the Rules;
  - 3) the data submitted is inconsistent with the register data of the respective entities;
  - 4) the relevant authorisation of the applicant or register user has not been demonstrated – in accordance with Sections 4.1.6 and 4.1.9;
  - 5) the technical or location data provided are inconsistent with the information available to the TSO or relevant DSOs, and reasons thereof have not been identified during registration.
- 6.3.3.8. A lack of the verification referred to in Section 6.3.3.4 or failed verification shall not provide a basis for refusal of entry into the register.
- 6.3.3.9. Consideration of the application for entry in the register shall be confirmed by a relevant entry in the register. Information on an entry having been made shall also be conveyed by notice sent automatically to the register user's email address.

#### 6.3.4. **Supplementing the application for entry in the register**

- 6.3.4.1. If an application is found to fail to meet the requirements set out in Article 12 (2) or (5) of the Act, or in the Rules, the TSO shall request the applicant, through the register, to rectify formal defects or deficiencies of the application, specifying such defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be conveyed by notice sent automatically to the register user's email address.
- 6.3.4.2. If the applicant, while having been requested by the TSO to do so, has not rectified formal defects or deficiencies of the application for entry in the register within the time limit set by the TSO, the TSO shall refuse to enter the unit into the register, informing the applicant thereof without delay, by making a relevant entry in the register. Information on refusal of entry shall also be conveyed by notice sent automatically to the register user's email address.
- 6.3.4.3. The TSO's notice of refusal to enter a physical unit or planned demand side response unit into the register shall specify the reasons thereof.
- 6.3.4.4. In the case of the TSO's decision refusing to enter a physical unit or planned demand side response unit into the register the applicant shall have the rights set forth in Section 19 – "Complaint procedure".

## **7. Certification for the main auction and additional auctions**

### **7.1. Participants and subject of certification**

- 7.1.1. Certification for the main auction and additional auctions shall be conducted by the TSO with the use of the register.
- 7.1.2. Certification for the main auction and additional auctions shall be conducted for the purpose of:
- 1) creation of a capacity market unit and its admission to the main auction and participation in secondary trading for the delivery year to which the certification relates, or
  - 2) creation of a capacity market unit and its admission to one or more additional auctions and participation in secondary trading for the delivery year to which the certification relates, or
  - 3) admission to one or more additional auctions of a capacity market unit created in the certification for the main auction for the same delivery year, or
  - 4) creation of a capacity market unit and its admission exclusively to participation in secondary trading for the delivery year to which the certification relates.
- 7.1.3. In certification for the main auction and additional auctions, the capacity provider shall submit an application for certification.
- 7.1.4. The capacity provider may submit an application for certification in a given calendar year only with regard to:
- 1) physical units or planned demand side response units with a register entry valid at the start of certification for the main auction or certification for additional auctions, or
  - 2) physical cross-border units, declared by the capacity provider who was a participant of a relevant pre-auction and its bid was accepted.
- 7.1.5. For a given physical unit, participation in certification for the main auction or certification for additional auctions for the purpose of admission to the capacity auction, shall be conditional upon the declaration in the application for entry in the register (general certification) of the physical unit for participation in the next main auction or one or more additional auctions, including the indication of quarters in the delivery year.
- 7.1.6. Participation in certification for the main auction or certification for additional auctions, relating to the physical units for which participation in capacity auctions has not been declared at the general certification stage, shall be voluntary, provided that an application for certification in such a case may concern only the creation of a capacity market unit and its admission to participate in secondary trading for the delivery year to which the certification relates.
- 7.1.7. Participation in the certification for the main auction or an additional auctions shall operate as consent to the acquisition by the TSO of metering/billing data concerning the physical units declared for the certification, during a validity period of the certificate issued..

### **7.2. Qualification of capacity market units**

- 7.2.1. In certification for the main auction, the TSO shall qualify a capacity market unit as:
- 1) an existing generating capacity market unit,
  - 2) a new generating capacity market unit;
  - 3) a refurbishing generating capacity market unit;
  - 4) a proven demand side response capacity market unit;
  - 5) an unproven demand side response capacity market unit.
- 7.2.2. In certification for additional auctions, the TSO shall qualify a capacity market unit as:
- 1) an existing generating capacity market unit,

- 2) a proven demand side response capacity market unit;
  - 3) an unproven demand side response capacity market unit.
- 7.2.3. In certification for the main auction, the TSO shall qualify as a new generating capacity market unit only a generating capacity market unit comprising one generating physical unit which was a planned physical generating unit at the commencement date of general certification taking place in the same year.
- 7.2.4. In certification for the main auction, the TSO shall additionally qualify a new generating capacity market unit as:
- 1) a new generating capacity market unit eligible to offer capacity obligations for not more than 15 delivery periods in the main auction – if the application for certification has demonstrated that the parameter referred to in Section 8.1.2 (1) (k) (the capacity auction parameter referred to in Article 32 (1) (4) (a) or the Act) has been met, or
  - 2) a new generating capacity market unit eligible to offer capacity obligations for not more than 5 delivery periods in the main auction – if the application for certification has demonstrated that the parameter referred to in Section 8.1.2 (1) (l) (the capacity auction parameter referred to in Article 32 (1) (4) (b) or the Act) has been met, or
  - 3) a new generating capacity market unit eligible to offer capacity obligations for 1 delivery period in the main auction – in other cases.
- 7.2.5. In the case of a new generating capacity market unit referred to in Section 7.2.4 (1) or (2), the TSO shall qualify such unit, in certification for the main auction, as a unit eligible to offer the capacity obligation for a delivery period longer by two years than the maximum period referred to in Section 7.2.4 (1) or (2) – if the application for certification demonstrates that the condition referred to in Article 25 (5) of the Act has been met.
- 7.2.6. In certification for the main auction, the TSO shall qualify as a refurbishing generating capacity market unit eligible to offer capacity obligations for not more than 5 delivery periods in the main auction a generating capacity market unit:
- 1) consisting of one generating physical unit which was an existing physical generating unit at the commencement date of general certification taking place in the same year, and
  - 2) for which the capacity provider has demonstrated, in the application for certification, that the parameter referred to in Section 8.1.2 (1) (l) (the capacity auction parameter referred to in Article 32 (1) (4) (b) or the Act) has been met.
- 7.2.7. In the case of a refurbishing generating capacity market unit, the TSO shall qualify such unit, in certification for the main auction, as a unit eligible to enter into a capacity agreement for a period longer by two years than the maximum period referred to in Section 7.2.6 – if the application for certification demonstrates that the condition referred to in Article 25 (5) of the Act has been met.
- 7.2.8. In certification for the main auction and in certification for additional auctions, the TSO shall qualify each capacity market unit consisting of physical demand side response units or planned demand side response units as a demand side response capacity market unit.
- 7.2.9. In certification for the main auction and in certification for additional auctions, the TSO shall qualify each capacity market unit consisting of at least one planned demand side response unit as an unproven demand side response capacity market unit.
- 7.2.10. In certification for the main auction, the TSO shall additionally qualify a demand side response capacity market unit as a demand side response capacity market unit eligible to offer capacity obligations for not more than 5 delivery periods in the main auction if the application for certification has demonstrated that the parameter referred to in Section 8.1.2 (1) (l) (the capacity auction parameter referred to in Article 32 (1) (4) (b) or the Act) has been met.
- 7.2.11. In certification for the main auction, the TSO shall qualify a capacity market unit other than that mentioned in Section 7.2.3 or 7.2.6 as an existing generating capacity market unit.
- 7.2.12. In certification for additional auctions, the TSO shall qualify each generating capacity market unit as an existing generating capacity market unit.

- 7.2.13. In certification for the main auction and in certification for additional auctions, the TSO shall qualify the demand side response capacity market unit for which the capacity provider has provided, in the application for certification, confirmation of completion of the demand side response performance test referred to in Section 15 as a proven demand side response capacity market unit.
- 7.2.14. In certification for the main auction and in certification for additional auctions, the TSO shall qualify the demand side response capacity market unit for which the capacity provider has not provided, in the application for certification, confirmation of completion of the demand side response performance test referred to in Section 15 as an unproven demand side response capacity market unit.
- 7.2.15. In certification for the main auction and in certification for additional auctions, the TSO shall qualify a capacity market unit comprising physical cross-border generating units as an existing generating capacity market unit.
- 7.2.16. In certification for the main auction and in certification for additional auctions, the TSO shall qualify a capacity market unit consisting of interconnector physical units as an existing generating capacity market unit.
- 7.2.17. In certification for the main auction and in certification for additional auctions, the TSO shall qualify a capacity market unit consisting of physical cross-border demand side response units as a demand side response capacity market unit.
- 7.2.18. Capacity market units other than those mentioned in Section 7.2.4 (1) and (2) and in Sections 7.2.6 and 7.2.10 shall be qualified by the TSO, in certification for the main auction and in certification for additional auctions, as units eligible to enter into the capacity agreement for a delivery period not longer than one delivery year.

### **7.3. Statuses of capacity market units**

#### **7.3.1. General information**

- 7.3.1.1. In a capacity auction, a capacity market unit may have the status of a price maker or price taker.
- 7.3.1.2. The status of a given capacity market unit shall be specified in the certificate referred to in Section 7.5.
- 7.3.1.3. In the main auction, the capacity market unit shall have the status of:
  - 1) price maker – in the case of:
    - a) a new generating capacity market unit;
    - b) a refurbishing generating capacity market unit;
    - c) a demand side response capacity market unit;
    - d) a capacity market unit consisting of physical cross-border units;
    - e) a capacity market unit consisting of interconnector physical units.
  - 2) price taker – in other cases.
- 7.3.1.4. In an additional auction, a capacity market unit shall have the status of:
  - 1) price maker – in the case of:
    - a) a demand side response capacity market unit;
    - b) a capacity market unit consisting of physical cross-border units;
    - c) a capacity market unit consisting of interconnector physical units;
  - 2) price taker – in other cases.

### **7.4. Application for certification for the main auction and additional auctions**

#### 7.4.1. **General rules**

- 7.4.1.1. An application for certification may be submitted by the capacity provider only through the register.
- 7.4.1.2. Submission of an application for certification for the purpose of admission of a capacity market unit to a capacity auction shall operate as expression of the intent to participate in the capacity auction with no need to submit an additional representation of intent after the certificate is obtained and the intent to enter into the capacity agreement as a result of the capacity auction.
- 7.4.1.3. An application for certification shall be signed with a qualified electronic signature by the register user duly authorised to represent the entity (person) on whose behalf he acts.
- 7.4.1.4. The capacity provider shall be required to file an application for certification for a capacity auction no sooner than the date of commencement of the relevant certification and no later than the 10th working day of the certification. Applications for certification filed at other times shall not be considered.
- 7.4.1.5. One application for certification shall apply only to one capacity market unit.
- 7.4.1.6. In the case of multiple declarations in one main certification of the same capacity market unit by the same applicant, only the latest application for certification shall be considered and any prior applications shall not be considered.
- 7.4.1.7. In the case of multiple declarations in one main certification of the same capacity market unit by different applicants who have demonstrated a relevant authorisation, only the application for certification submitted by the capacity provider who first submitted an application shall be considered, unless the capacity provider has demonstrated, in the application for certification, the holding of a relevant authorisation to dispose of that unit. The TSO shall refuse to issue a certificate in response to applications submitted by other capacity providers.
- 7.4.1.8. In the case of multiple declarations by the same capacity provider, in one main certification, of the same physical unit forming part of different capacity market units, such unit shall form part of the capacity market unit for which an application for certification was submitted first, unless the capacity provider has demonstrated, in the application for certification, the holding of a relevant authorisation to dispose of that unit.
- 7.4.1.9. In the case of multiple declarations by different capacity providers, in one main certification, of the same physical unit forming part of different capacity market units, such unit shall form part of the capacity market unit of the capacity provider who was first to submit an application for certification, unless the capacity provider has demonstrated, in the application for certification, the holding of a relevant authorisation to dispose of that unit.
- 7.4.1.10. The capacity provider shall attach to the application for certification the required documents in electronic form, certified as true copies by the register user with a qualified electronic signature.
- 7.4.1.11. Submission of an application for certification shall be confirmed by the TSO entering relevant information into the register. A notice of such information entry shall also be sent automatically to the capacity provider's email address.
- 7.4.1.12. The application for certification may be withdrawn by the capacity provider within the time limit specified in Section 7.4.1.4.

#### 7.4.2. **Content of the application for certification**

- 7.4.2.1. The application for certification of an existing generating capacity market unit shall contain:
  - 1) identification data of generating physical units forming part of the capacity market unit, including codes of physical units assigned to them by the register;
  - 2) identification data and authorisation of the capacity provider, including:

- a) the name of the capacity provider or the first name and surname for a natural person;
  - b) PESEL number or the passport number (where there is no PESEL number) for a natural person;
  - c) KRS, NIP, REGON numbers and a current extract from KRS (or full extract from KRS if the current extract is insufficient to confirm the powers of the persons signing authorisations/powers of attorney/statements) or the entry number and relevant register (body maintaining the register) of the state of incorporation of the company and the current extract from the register for foreign companies;
  - d) REGON and NIP numbers of all partners in a partnership and passport number for partners in a partnership who are natural persons and do not have REGON and NIP numbers – for a partnership;
  - e) REGON and NIP numbers – for a natural person carrying on business;
  - f) registered office or place of residence and address of the capacity provider;
  - g) contact details: correspondence address, email address, telephone number;
  - h) documents confirming the authorisation to dispose of physical units, submitted in accordance with Section 4.1.9 (2) – if the capacity provider is not an owner of the physical units forming part of the capacity market unit;
  - i) authorisation of the register user to represent the capacity provider, i.e. power of attorney submitted in accordance with Section 4.1.6 (2) – if the register user is not a capacity provider or is not authorised for sole representation of the capacity provider or has failed to demonstrate its authorisation in accordance with Section 4.1.19;
  - j) bank SWIFT code and bank account number in IBAN format to which the collateral will be returned – if the capacity provider seeks the establishment of a new generating capacity market unit or an unproven demand side response capacity market unit;
- 3) in the case of participation in certification for the purpose referred to in Section 7.1.2 (1), (2) or (3), the capacity obligation volume to be offered by the capacity provider for the capacity market unit in the capacity auction, not greater than the product of the net maximum capacity of the unit and the de-rating factor referred to in Section 8.1.2 (1) (j);
  - 4) for physical units connected or planned to be connected to the distribution grid – a confirmation, issued by the territorially relevant DSOc through the register or in the form of a separate document, that, in the delivery year, the metering/billing systems meet the technical requirements referred to in Section 21, necessary for the correct management of settlement operations – including all metering points, situated in the distribution grids, of all physical units forming part of the capacity market unit concerned;
  - 5) for physical units connected or planned to be connected to the transmission grid – a confirmation, issued by the TSO through the register or in the form of a separate document, that, in the delivery year, the metering/billing systems meet the technical requirements referred to in Section 21, necessary for the correct management of settlement operations – including all metering points, situated in the transmission grid, of all physical units forming part of the capacity market unit concerned;
  - 6) copy of the electricity generation licence granted to physical units forming part of a capacity market unit or copies of licence promises, if required in accordance with the Energy Law Act;
  - 7) net maximum capacity of the capacity market unit during the delivery period – net maximum capacity of a capacity market unit being defined as the sum of net maximum capacities of all physical units forming part of the capacity market unit;
  - 8) information confirming the ability of individual physical units forming part of a capacity market unit to provide net maximum capacity during the delivery period for a

continuous period not shorter than 4 hours, including information about the technology used and the method of ensuring the availability of fuel in quantities sufficient for the performance of the capacity obligation, drawn up in accordance with Appendix 7.1 to the Rules;

- 9) technical and economic parameters including:
- a) the rate of changes in the volumes of electricity generated by physical units forming part of a capacity market unit, expressed in net MW/minute,
  - b) net electricity generation efficiency (expressed in percent):
    - annual average,
    - under normal conditions at net maximum capacity, taking into account results of operational, warranty or post-refurbishment measurements, whichever are the latest;
    - under normal conditions at the technical minimum referred to in point (c), taking into account results of operational, warranty or post-refurbishment measurements, whichever are the latest;and, in the case of cogeneration units, referred to in Article 3(35) of the Energy Law Act, also the net general efficiency defined as the average annual ratio of net electricity and heat generation to fuel chemical energy consumption in a cogeneration unit; normal conditions are defined as average annual operating conditions, taking into account: ambient temperature, cooling water temperature, atmospheric pressure and fuel parameters,
  - c) technical minimum for electricity generation at which a physical generating unit may operate for a continuous period not shorter than 4 hours, without adversely affecting the service life of the unit, expressed in relation to net maximum capacity,
  - d) unit emission factors for: sulphur oxides, nitrogen oxides and dust, defined as the average value for the calendar year preceding the year in which main certification takes place, calculated in accordance with Section 7.4.2.4 and 7.4.2.6.
  - e) unit carbon dioxide emission factor for a capacity market unit, understood as an average value for the calendar year preceding the year in which main certification takes place, determined in accordance with Section 7.4.2.3 and 7.4.2.6,
  - f) information on operating costs and capital costs of physical units forming part of the capacity market unit, including:
    - unit variable costs, expressed in PLN/MWh net of energy fed into the grid, including variable costs of transport and other costs of purchase of primary fuel, variable costs of consumables including related transport costs (e.g. chemicals, oils, lubricants), variable costs of use of the environment including waste transport costs, i.e. fees for the use of air, water and earth, including furnace waste storage fees;
    - fixed operating costs, expressed in PLN, including fixed costs of materials and energy consumption, costs of third-party services, taxes and fees, personnel costs, costs of property insurance, representation, advertising and sponsoring;
    - (net) current value of fixed assets forming part of the physical unit, expressed in PLN,for the calendar year preceding the year in which main certification takes place;
- 10) information on existing and planned time restrictions on the operation of a physical unit resulting from separate provisions, e.g. from environmental regulations;
- 11) a statement to the effect that no circumstances referred to in Article 16 (2) of the Act have occurred or will occur for any physical unit that will form part of the capacity market unit to be created;

- 12) a statement of consent to the acquisition by the TSO of metering/billing data concerning physical units declared for an auction in a given certification, from the commencement date of the delivery period to the end of the certificate validity period
- 13) a declaration on the planned compliance with the emission limit by the capacity market unit in the delivery year to which the certification relates, or, in the case referred to in Article 15 (7) of the Act, a declaration on the failure to comply with this limit;
- 14) a declaration on the commencement of commercial production before July 4, 2019 by all generating units included in the physical units forming part of capacity market unit or on the commencement of commercial production by at least one generating unit included in the physical units forming part of capacity market unit on that date or later;
- 15) a document containing the data necessary for the TSO to verify the information referred to in Section 7.4.2.2, drawn up in accordance with Appendix No. 7.10 to the Rules;
- 16) a declaration stating that the circumstances do not occur towards the capacity provider as referred to in Article 19 (1) (11) of the Act;
- 17) information form provided when applying for state aid other than agricultural or fishing aid, de minimis aid or de minimis aid in agriculture or fishing, drawn up in accordance with the template specified in the provisions of the Regulation issued on the basis of Article 37 (6) of the Act of 30 April 2004 on the procedural issues concerning state aid (Journal of Laws of 2021, item 743);
- 18) the financial statements for the period of the last 3 financial years, drawn up in accordance with the accounting regulations or the relevant regulations of the country in which the capacity provider has its registered office or place of residence, and if the statements are subject to auditing by an auditing company in accordance with the accounting regulations, also accordingly with the report on the audited financial statements, and in the case of capacity providers not obliged to prepare the financial statements, other documents that specify, in particular, the revenues, assets, and liabilities – for the period of the last 3 financial years, and if the period of business activity is shorter – for that period;

7.4.2.2. For the purpose of submitting the declaration referred to in Section 7.4.2.1 (13) and 7.4.2.12 (13), the unit carbon dioxide emission for the generating unit shall be determined in accordance with the formula specified in Article 3a (2) of the Act.

7.4.2.3. Subject to Section 7.4.2.6, the unit carbon dioxide emission factor for a capacity market unit shall be determined in accordance with the following formula:

$$JW_{CO_2} = \sum_{j=1}^J \alpha_j EJ_j$$

where:

- $JW_{CO_2}$  – means the unit carbon dioxide emission factor of a given capacity market unit, expressed in gCO<sub>2</sub>/kWh;
- $EJ_j$  – means the unit carbon dioxide emission of the generating unit  $j$ , included in the physical units forming part of given capacity market unit, expressed in gCO<sub>2</sub>/kWh, determined in accordance with Article 3a (2) of the Act;
- $\alpha_j$  – assumed share of the generating unit  $j$  in the fulfilment of the offered capacity obligation of the unit, expressed in %.

7.4.2.4. Subject to Section 7.4.2.6, unit emission factors for: sulphur oxides, nitrogen oxides and dust for the capacity market unit shall be calculated in accordance with the following formulas:

$$JW_j^i = \frac{EM_j^i}{E_j + Q_j}$$

$$JW_i = \sum_{j=1}^j \alpha_j JW_j^i$$

where:

- $JW_i$  – means the unit emission factor of substance  $i$  for the capacity market unit, expressed in g/kWh net with an accuracy of 3 decimal places;
- $JW_j^i$  – means the unit emission factor of substance  $i$  for generating unit  $j$ , expressed in g/kWh net with an accuracy of 3 decimal places;
- $EM_j^i$  – means the total annual quantity of substance  $i$  released into the atmosphere from generating unit  $j$ , expressed in kg/year;
- $E_j$  – means total annual gross electricity production in generating unit  $j$ , expressed in MWh;
- $Q_j$  – means total annual gross heat generated in generating unit  $j$ , expressed in MWh;
- $\alpha_j$  – assumed share of generating unit  $j$  in fulfilment of the offered capacity obligation of the unit, expressed in %,

whereas emissions of these substances shall be calculated in the same way as for the purposes of environmental fees referred to in the Environmental Protection Law Act. In the case of physical cross-border units, data of equivalent quality shall be provided.

- 7.4.2.5. The unit carbon dioxide emission factor for the capacity market unit determined in order to verify the fulfilment of the condition referred to in Article 25 (5) (1) of the Act shall be determined in accordance with the following formulas:

$$JW_{CO_2\_GB}^j = \frac{CO_{2\_tot}^j}{E_j + Q_j}$$

$$JW_{CO_2\_GB} = \sum_{j=1}^J \alpha_j JW_{CO_2\_GB}^j$$

where:

- $JW_{CO_2\_GB}$  – means the unit carbon dioxide emission factor of the capacity market unit determined as for verification of the condition referred to in Article 25 (5) of the Act, expressed in g/kWh with accuracy to 3 decimal points;
- $JW_{CO_2\_GB}^j$  – means the unit carbon dioxide emission factor for the generating unit  $j$ , expressed in g/kWh with accuracy to 3 decimal points;
- $CO_{2\_tot}^j$  – means the total annual amount of carbon dioxide introduced into the atmosphere from the generating unit  $j$ , expressed in kg/year;
- $E_j$  – means total annual gross electricity generation in a generation unit  $j$ , expressed in MWh;
- $Q_j$  – means total annual gross heat generated in a generating unit  $j$ , expressed in MWh;
- $\alpha_j$  – assumed share of the generating unit  $j$  in the fulfilment of the offered capacity obligation of the unit, expressed in %,

whereas carbon dioxide emission shall be determined as for the emission reporting purposes specified in Commission Regulation (EU) 2018/2066 of December 19, 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive

2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) 601/2012.

7.4.2.6. Where a physical unit with an energy storage facility:

- 1) includes one or more generating units:
  - a) unit emission factors for sulphur oxides, nitrogen oxides and dust are calculated in accordance with Section 7.4.2.4,
  - b) unit carbon dioxide emission factor is assumed to be equal to the highest of the emission factors determined for the generating units connected directly with this energy storage facility, in accordance with Section 7.4.2.2,
  - c) unit carbon dioxide emission factor for the purpose of verifying the compliance with the condition, referred to in Article 25 (5) (1) of the Act shall be calculated in accordance with Section 7.4.2.5;
- 2) does not include any generation units:
  - a) unit emission factors for carbon dioxide, sulphur oxides, nitrogen oxides and dust are assumed to be equal to zero,
  - b) unit carbon dioxide emission factor for the purpose of verifying the compliance with the condition, referred to in Article 25 (5) (1) of the Act shall be calculated in accordance with the following formula:

$$JW_{CO2\_GB} = JW_{OK\_CO2} \cdot \left( \frac{1}{\eta} - 1 \right)$$

where:

- $JW_{CO2\_GB}$  – means the unit carbon dioxide emission factor determined as for verification of the condition referred to in Article 25 (5) of the Act, expressed in g/kWh with accuracy to 3 decimal points;
- $JW_{OK\_CO2}$  – means the unit carbon dioxide emission factor for electricity produced for final customers, expressed in g/kWh net, resulting from the most up-to-date data published by the National Centre for Emission Balancing and Management (KOBIZE);
- $\eta$  – means the efficiency of a single charge/discharge cycle of an energy storage facility.

7.4.2.7. The information referred to in Section 7.4.2.1 (9), excluding subsection (d) and (e) shall be presented for the leading generation technology of the physical unit. Where there is more than one generating unit in the leading generation technology, weighted average values shall be presented in relation to the net maximum capacity of those sources.

7.4.2.8. The information referred to in Section 7.4.2.1 (9) (f) shall be presented in accordance with the current principles of management accounting applied by owners of individual physical units. With regard to variable and fixed costs, the information shall be based on accrued cash flows for a calendar year.

7.4.2.9. In addition to the data and information contained in Section 7.4.2.1, the application for certification of a new generating capacity market unit shall contain:

- 1) planned or incurred capital expenditure for systems and installations related functionally and technologically to the generation or storage of electricity and the substantive scope related to such expenditure;
- 2) where the conclusion of a capacity agreement is sought, including a capacity obligation with a duration of more than 1 delivery year – an independent study confirming:
  - a) capital expenditure referred to in subsection (1) and
  - b) planned compliance with the required emission standards of a physical unit forming part of a new generating capacity market unit, specified in Directive 2010/75/EU or in Directive 2015/2193/EU, respectively;

- c) planned compliance with the emission limit by a new capacity market generating unit in each delivery year,
- d) where the conclusion of a capacity agreement is sought in accordance with Section 7.2.5 – planned compliance of a physical unit forming part of a new generating capacity market unit with the parameter referred to in Article 25 (5) (1) or (2) of the Act, whereas the unit carbon dioxide emission factor referred to in Article 25 (5) (1) of the Act should be determined in accordance with Section 7.4.2.5 or Section 7.4.2.6,

drawn up in accordance with the requirements referred to in Section 7.4.5;

- 3) certified true copies of:
  - a) grid connection agreement or connection conditions if no agreement has been concluded,
  - b) final building permit issued for a physical unit, if required by construction law and issued,
  - c) final decision on environmental conditions of the consent for project implementation, issued under the Act of 3 October 2008 on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessment, if required and issued;
- 4) information confirming the possibility of obtaining financing for the project, including:
  - a) representation to the effect that the project will be financed with own funds, or
  - b) a promise of a bank agreement or a bank agreement to finance the project, or
  - c) the current investment rating meeting the requirements set forth in the regulation referred to in Article 51 (1) of the Act, of the type applicable to exemption from the establishment of collateral, or
  - d) representation by a company of the investor's corporate group giving assurance of project financing, or
  - e) a financing promise or agreement covering the financing of an investment project;
- 5) substantive and financial schedule for the project, drawn up in accordance with Appendix 7.2 to the Rules;
- 6) information on the duration of the capacity obligation, taking into account Section 7.2.3 and 7.2.5, resulting from the capacity agreement which the capacity provider intends to conclude as a result of the capacity auction for the unit concerned.

7.4.2.10. In addition to the data and information contained in Section 7.4.2.1, the application for certification of a refurbishing generating capacity market unit shall contain:

- 1) planned or incurred capital expenditure for systems and installations related functionally and technologically to the generation or storage of electricity and the substantive scope related to expenditure on the capacity market unit refurbishment;
- 2) net maximum capacity in the delivery period in the event refurbishment is abandoned;
- 3) the capacity obligation volume to be offered in the capacity auction in the event refurbishment is abandoned, not greater than:
  - a) capacity obligation volume in the case of refurbishment, and
  - b) product of the de-rating factor and the capacity referred to in subsection (2);
- 4) where the conclusion of a capacity agreement is sought, including a capacity obligation with a duration of more than 1 delivery year – an independent study confirming:
  - a) capital expenditure referred to in subsection (1), and

- b) planned compliance with the required emission standards by a physical unit forming part of a refurbishing generating capacity market unit, specified in Directive 2010/75/EU or in Directive 2015/2193/EU, respectively;
- c) planned compliance with the emission limit by a refurbishing generating capacity market unit in each delivery year;
- d) where the conclusion of a capacity agreement is sought in accordance with Section 7.2.7 – planned compliance of a physical unit forming part of a refurbishing generating capacity market unit with the parameter referred to in Article 25 (5) (1) or (2) of the Act, whereas the unit carbon dioxide emission factor referred to in Article 25 (5) (1) of the Act should be determined in accordance with Section 7.4.2.5 or Section 7.4.2.6,

drawn up in accordance with the requirements referred to in Section 7.4.5;

- 5) information confirming the possibility of obtaining financing for the project, including:
  - a) representation to the effect that the generating unit refurbishment will be financed with own funds, or
  - b) a promise of a bank agreement or a bank agreement to finance the project, or
  - c) the current investment rating meeting the requirements set forth in the regulation referred to in Article 51 (1) of the Act, of the type applicable to exemption from the establishment of collateral, or
  - d) representation by a company of the investor's corporate group giving assurance of project financing, or
  - e) a financing promise or agreement covering the financing of an investment project
- 6) substantive and financial schedule for the project, drawn up in accordance with Appendix 7.3 to the Rules;
- 7) information on a change resulting from an upgrade of the technical and economic parameters, referred to in Section 7.4.2.1 (9);
- 8) information on the duration of the capacity obligation, taking into account Section 7.2.6 and 7.2.7, resulting from the capacity agreement which the capacity provider intends to conclude as a result of the capacity auction for the unit concerned.

7.4.2.11. The application for certification of a generating capacity market unit comprising physical cross-border units shall contain:

- 1) a list of physical cross-border generating units forming part of the capacity market unit together with the information referred to in Section 6.3.2.1 (1) – (5) for each physical cross-border generating unit forming part of the capacity market unit concerned;
- 2) the information referred to in Section 7.4.2.1 (1), (2), (7) – (15);
- 3) the capacity obligation volume to be offered by the capacity provider for the capacity market unit in the capacity auction, not smaller than 2 MW and not greater than the volume resulting from a bid accepted in a pre-auction and not greater than the product of the net maximum capacity of this unit and the de-rating factor referred to in Section 8.1.2 (1) (j);
- 4) for each physical cross-border generating unit forming part of given capacity market unit, a confirmation, issued in accordance with the template provided in Appendix 7.4 by the transmission system operator competent for the location of the physical cross-border generating unit, stating compliance with the actual situation of the technical parameters and its location;
- 5) for each physical cross-border generating unit forming part of given capacity market unit, a commitment, issued in accordance with the template provided in Appendix 7.5 by the transmission system operator competent for the location of the physical cross-border generating unit, to provide the TSO with metering/billing data and data

regarding generation bids submitted by a physical cross-border generating unit, enabling the verification and settlement of the performance of the capacity obligation;

- 6) in the case of certification for additional auctions – indication of the quarters of the delivery year in respect of which the capacity provider intends to participate in additional auctions.

7.4.2.12. The application for certification of a demand side response capacity market unit shall contain:

- 1) identification data of physical demand side response units and planned demand side response units forming part of the capacity market unit, including the code of a physical demand side response unit or the code of a planned demand side response unit assigned by the register;
- 2) identification data and authorisation of the capacity provider, including:
  - a) the name of the capacity provider or the first name and surname for a natural person;
  - b) PESEL number or the passport number (where there is no PESEL number) for a natural person;
  - c) KRS, NIP, REGON numbers and a current extract from KRS (or full extract from KRS if the current extract is insufficient to confirm the powers of the persons signing authorisations/powers of attorney/statements) or the entry number and relevant register (body maintaining the register) of the state of incorporation of the company and the current extract from the register for foreign companies;
  - d) REGON and NIP numbers of all partners in a partnership and passport number for partners in a partnership who are natural persons and do not have REGON and NIP numbers – for a partnership;
  - e) REGON and NIP numbers – for a natural person carrying on business;
  - f) registered office or place of residence and address of the capacity provider;
  - g) contact details: correspondence address, email address, telephone number;
  - h) documents confirming the authorisation to dispose of physical units, submitted in accordance with Section 4.1.9 (2) – if the capacity provider is not an owner of the physical units forming part of the capacity market unit;
  - i) authorisation of the register user to represent the capacity provider, i.e. power of attorney submitted in accordance with Section 4.1.6 (2) – if the register user is not a capacity provider or is not authorised for sole representation of the capacity provider or has failed to demonstrate its authorisation in accordance with Section 4.1.19;
- 3) the capacity obligation volume to be offered by the capacity provider for this capacity market unit in the capacity auction, not greater than the product of the net maximum capacity of the unit and the de-rating factor referred to in Section 8.1.2 (1) (j);
- 4) where the conclusion of a capacity agreement is sought, including a capacity obligation with a duration of more than 1 delivery year:
  - a) planned or incurred capital expenditure for adjusting the customer's equipment to enable it to provide demand side response services, build an energy storage or internal electricity generating unit, which will form part of the end-user's equipment, and the substantive scope related to such expenditure, and
  - b) a substantive and financial schedule of the project drawn up in accordance with Appendix 7.6 to the Rules;
  - c) independent study confirming:
    - capital expenditure referred to in subsection (a), and
    - where a demand side response capacity market unit consists of at least one generating unit – technical parameters of all generating units included in

physical demand side response units forming part of given demand side response capacity market unit and their planned compliance with the required emission standards specified in Directive 2010/75/EU or Directive 2015/2193/EU, respectively, or

- in a case other than described above – the lack of generating units included in the physical demand side response units forming part of given capacity market unit,
- planned compliance with the emission limit by all generating units included in physical units forming part of given demand side response capacity market unit in each delivery year,

drawn up in accordance with the requirements referred to in Section 7.4.5;

- d) information on the duration of the capacity obligation, taking into account Section 7.2.10, resulting from the capacity agreement which the capacity provider intends to conclude as a result of the capacity auction for the unit concerned;
- 5) for physical units connected or planned to be connected to the distribution grid – a confirmation, issued by the territorially relevant DSOc through the register or in the form of a separate document, that in the delivery year the metering/billing systems meet the technical requirements referred to in Section 21, necessary for the correct management of settlement operations – including all metering points situated in the distribution grids, of all physical units forming part of the capacity market unit concerned;
- 6) for physical units connected or planned to be connected to the transmission grid – a confirmation, issued by the TSO through the register or in the form of a separate document, that in the delivery the metering/billing systems meet the technical requirements referred to in Section 21, necessary for the correct management of settlement operations – including all metering points situated in the transmission grid, of all physical units forming part of the capacity market unit concerned;
- 7) net maximum capacity of the capacity market unit during the delivery period – maximum capacity of a capacity market unit being defined as the sum of maximum capacities of all physical demand side response units forming part of the capacity market unit;
- 8) confirmation of completion of the demand side response performance test referred to in Section 15, at the capacity not lower than the product of the net maximum capacity of the unit and the de-rating factor referred to in Section 8.1.2 (1) (j) – in the case of an application for the creation of a proven demand side response capacity market unit;
- 9) information on the technological systems based on which reduction of capacity demand from a capacity market unit will be performed;
- 10) representation to the effect that no circumstances referred to in Article 16 (2) of the Act have occurred or will occur for any physical unit that will form part of a capacity market unit;
- 11) documents and information referred to in Section 7.4.2.1 (9) (d) – (f) where the reduction of a capacity market unit's capacity demand from the grid is effected with the use of a generating unit or an energy storage;
- 12) representation of consent to the acquisition by the TSO of metering/billing data concerning physical units declared for an auction in a given certification, in the delivery period to which the certificate relates;
- 13) a declaration on the planned compliance with the emission limit by the capacity market unit in the delivery year to which the certification relates, or, in the case referred to in Article 15 (7) of the Act, a declaration on the failure to comply with this limit;
- 14) if the capacity market unit comprises at least one generating unit – a declaration on the commencement of commercial production before July 4, 2019 by all generating

units included in physical units forming part of capacity market unit or on the commencement of commercial production by at least one generating unit included in physical units forming part of capacity market unit on that date or later;

- 15) if the capacity market unit comprises at least one generating unit – a document containing the data necessary for the TSO to verify the information referred to in Section 7.4.2.2, drawn up in accordance with Appendix 7.10 to the Rules
  - 16) a declaration stating that the circumstances do not occur towards the capacity provider as referred to in Article 19 (1) (11) of the Act;
  - 17) information form provided when applying for state aid other than agricultural or fishing aid, de minimis aid or de minimis aid in agriculture or fishing, drawn up in accordance with the template specified in the provisions of the Regulation issued on the basis of Article 37 (6) of the Act of April 30, 2004 on the procedural issues concerning state aid (Journal of Laws of 2021, item 743);
  - 18) the financial statements for the period of the last 3 financial years, drawn up in accordance with the accounting regulations or the relevant regulations of the country in which the capacity provider has its registered office or place of residence, and if the statements are subject to auditing by an auditing company in accordance with the accounting regulations, also accordingly with the report on the audited financial statements, and in the case of capacity providers not obliged to prepare the financial statements, other documents that specify, in particular, the revenues, assets, and liabilities – for the period of the last 3 financial years, and if the period of business activity is shorter – for that period;
- 7.4.2.13. Where a demand side response capacity market unit comprises a planned demand side response unit, the information referred to in Section 7.4.2.12 (2) (h) and subsections (5), (6), (9) and (12) – (15) shall not be required for such unit.
- 7.4.2.14. The period in which the expenditure referred to in Section 7.4.2.9 (1), 7.4.2.10 (1) and 7.4.2.12 (4) (a) is incurred shall cover the period from the beginning of the year in which the main auction for a given delivery year takes place until the end of the year preceding the delivery year. The same capital expenditure may be used by a capacity market unit only for the purposes of one capacity agreement.
- 7.4.2.15. The application for certification of a demand side response capacity market unit comprising physical cross-border demand side response units shall contain:
- 1) a list of physical cross-border demand side response units forming part of the capacity market unit together with the information referred to in Section 6.3.2.1 (1) – (5);
  - 2) the data and information referred to in Section 7.4.2.12 (1), (2), (8) – (15);
  - 3) the capacity obligation volume to be offered by the capacity provider for the capacity market unit in the capacity auction, not smaller than 2 MW and not greater than the capacity resulting from a bid accepted in the pre-auction, and not greater than the product of the net maximum capacity of the capacity market unit and the de-rating factor referred to in Section 8.1.2 (1) (j);
  - 4) for each physical cross-border demand side response unit being a part of a given capacity market unit, a confirmation, issued in accordance with the template provided in Appendix 7.4 by the transmission system operator competent for the location of the physical cross-border unit, stating compliance with the actual status of the technical parameters and location;
  - 5) for each physical cross-border demand side response unit being a part of a given capacity market unit, a commitment, issued in accordance with the template provided in Appendix 7.5 by the transmission system operator competent for the location of the physical cross-border demand side response unit, to provide the TSO with metering/billing data and data regarding electricity consumption reduction bids submitted by the physical cross-border demand side response unit, enabling the verification and settlement of the performance of the capacity obligation;

- 6) in the case of certification for additional auctions – indication of the quarters of the delivery year in respect of which the capacity provider intends to participate in additional auctions.
- 7.4.2.16. In the case of the confirmations referred to in Section 7.4.2.1 (4) or (5) and Section 7.4.2.12 (5) or (6) such confirmations shall be allowed to be obtained at the general certification stage, in accordance with Sections 6.3.2.4 – 6.3.2.5. If the confirmations concerned have not been obtained in general certification, the rules for obtaining them shall be as described in:
- 1) Section 21 – for metering points in the distribution grid,
  - 2) Section 7.4.6 – for metering points in the transmission grid,
- 7.4.2.17. In the case of an application for certification of a capacity market unit consisting of physical units that have metering points both in the transmission grid and in the distribution grid, the capacity provider shall be required, for each of those units, to provide the confirmations referred to in Section 7.4.2.1 (4) and (5) or Section 7.4.2.12 (5) and (6), respectively.
- 7.4.2.18. In the case of submission of an application for certification of a generating capacity market unit comprising the planned physical generating unit, information referred to in:
- 1) Section 7.4.2.1 (9) (a) – (c) for this physical unit shall be submitted to the best of the knowledge available at the date of submission of the application for certification.
  - 2) Section 7.4.2.1 (9) (d) shall include the values of unit emission factors of the specified substances, forecasted for the first delivery period, taking into account the following: the assumed annual gross electricity generation, the assumed annual amount of generated heat, and the expected fuel parameters;
  - 3) Section 7.4.2.1 (9) (e) – (f) shall include forecasted values for the first delivery year;
  - 4) Subsection 7.4.2.1 (10) shall be submitted to the best of the knowledge available at the date of submission of the application for certification.
- 7.4.3. **The evaluation process and evaluation criteria relating to applications for certification for the main auction and additional auctions**
- 7.4.3.1. Applications for certification shall be considered by the TSO.
- 7.4.3.2. Consideration of the application for certification shall involve the verification of:
- 1) completeness and correctness of data and information provided;
  - 2) submission of appendices to the application using the forms or templates required by the Rules;
  - 3) submission of the required documents confirming the authorisation of the capacity provider and the register user submitting the application, in accordance with Sections 4.1.6 and 4.1.9;
  - 4) compliance of the data submitted with the register data of each entity;
  - 5) configuration of metering points of each physical unit forming part of a capacity market unit,
  - 6) the occurrence of cases of applications having been submitted for the same capacity market unit;
  - 7) correctness of an independent study drawn up in accordance with Section 7.4.5, if attached to the application.
- 7.4.3.3. In considering applications for certification in accordance with Section 7.4.3.2, the TSO shall rely on data and information: provided with the application, held in its own systems, or information obtained from publicly available reliable and verifiable sources.
- 7.4.3.4. Successful verification of an application for certification shall result in the TSO issuing a certificate for a capacity market unit, referred to in Section 7.5.

- 7.4.3.5. Subject to Section 7.4.4 the TSO shall refuse to issue a certificate to a capacity market unit in the case the application for certification fails to comply with the requirements set forth in Article 15, Article 16 (1) or (2), Article 19 or Article 20 of the Act, or set out in the Rules, in particular where:
- 1) the data submitted is found to be incomplete or incorrect;
  - 2) appendices to the application have been submitted using forms or models inconsistent with the Rules;
  - 3) appropriate powers to act on behalf of the capacity provider in accordance with Section 4.1.6, or powers of the capacity provider to dispose of the physical unit in accordance with Section 4.1.9 have not been demonstrated;
  - 4) the application does not comply with the requirements referred to in Section 7.1.4;
  - 5) the application covers a physical unit comprising a generating unit exceeding the emission limit, subject to the case referred to in Article 15 (7) of the Act;
  - 6) the circumstances occur towards the capacity provider as referred to in Article 15 (8) of the Act;
  - 7) the data submitted is inconsistent with the register data of the respective entities;
  - 8) grounds have arisen for refusal to issue a certificate in accordance with the provisions of Section 7.4.1.7;
  - 9) an independent study has been drawn up in a manner inconsistent with Section 7.4.5.
- 7.4.3.6. Consideration of an application for certification shall be confirmed by the TSO entering relevant information into the register. A notice of such information entry shall also be sent automatically to the capacity provider's email address.

**7.4.4. The process of supplementing the application for certification for the main auction and additional auctions**

- 7.4.4.1. If an application is found to fail to meet the requirements set out in Article 15, Article 16 (1) or (2), Article 19 or Article 20 of the Act, or in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the application, specifying such defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be conveyed by notice sent automatically to the register user's email address.
- 7.4.4.2. If the capacity provider, while having been requested by the TSO to do so, has not rectified formal defects or deficiencies of the application for certification within the time limit set by the TSO, the TSO shall refuse to issue the certificate, informing the capacity provider thereof without delay, by making a relevant entry in the register. Information on refusal to issue a certificate shall also be conveyed by notice sent automatically to the register user's email address.
- 7.4.4.3. Information on refusal to issue the certificate shall specify the reasons thereof.
- 7.4.4.4. In the case of the TSO's decision refusing to issue a certificate, the capacity provider shall have the rights set forth in Section 19 – "Complaint procedure".

**7.4.5. Independent study**

- 7.4.5.1. An independent study shall be drawn up for the purposes of:
- 1) obtaining a certificate for a new or refurbishing generating capacity market unit, authorising the capacity provider to enter into a capacity agreement for more than one delivery year as a result of the main auction;

- 2) obtaining a certificate for a demand side response capacity market unit, authorising the capacity provider to enter into a capacity agreement for more than one delivery year as a result of the main auction;
- 3) a capacity market unit achieving the Substantial Completion Milestone referred to in Section 14.1.2.

7.4.5.2. In the case referred to in Section 7.4.5.1 (1) or (2), the independent study shall contain:

- 1) the information referred to in Section 7.4.2.9 (2), in Section 7.4.2.10 (4) or in Section 7.4.2.12 (4) (c), confirming that within the meaning of the Environmental Protection Law Act, in particular the regulations issued under Directive 2010/75/EU or Directive 2015/2193/EU, as applicable, each combustion plant combined technologically with a capacity market unit, i.e. a plant whose operation is necessary for physical units forming part of the capacity market unit to operate at maximum capacity, shall meet, in the planned capacity obligation period, all conditions necessary to obtain or hold an integrated permit or other equivalent document. The conditions arise from the laws and regulations applicable at the date of submission of the certification application, which concern the planned delivery periods;
- 2) confirmation of the expenditure presented in the investment substantive and financial schedule forming an appendix to the application for certification, for the planned or incurred capital expenditure declared by the capacity provider in the application for certification;
- 3) planned compliance with the emission limit by a capacity market unit in each delivery year;
- 4) whenever the conclusion of an agreement is sought in accordance with Article 25(5) of the Act – planned compliance of a capacity market unit with the parameter referred to in Article 25 (5) (1) or (2) of the Act.

7.4.5.3. In the case referred to in Section 7.4.5.1 (3), the independent study shall contain:

- 1) the information referred to in Section 14.1.2.3 (2) or Section 14.1.2.4 (1), confirming that within the meaning of the Environmental Protection Law Act, in particular the regulations issued under Directive 2010/75/EU or Directive 2015/2193/EU, as applicable, each combustion plant combined technologically with a capacity market unit, i.e. a plant whose operation is necessary for the capacity market unit to fully perform its capacity obligation, is covered by the decision granting the integrated permit or other equivalent document (a decision issued, being in legal transactions);
- 2) confirmation of the expenditure presented in the investment substantive and financial schedule forming an appendix to the declaration confirming achieving the Substantial Commitment Milestone;
- 3) confirmation of meeting the parameter referred to in Article 25 (5) (1) or (2) of the Act, respectively – in the case of a generating capacity market unit which, pursuant to Article 25 (5) of the Act, concluded as a result of the main auction a capacity agreement for a period longer than that resulting from Article 25 (4) of the Act.
- 4) confirmation concerning the volume of changed net maximum capacity of a physical generating unit – in the case of a physical generating unit whose net maximum capacity has been changed on the basis of the application referred to in Article 47a (1) of the Act.

7.4.5.4. Where the expenditure referred to in Section 7.4.5.2 (2) or 7.4.5.3 (2) concerns common installations of multiple physical units, it shall be assigned to individual capacity market units, by allocating the expenditure to physical units forming part of individual capacity market units.

7.4.5.5. The expenditure referred to in Section 7.4.5.4 shall be allocated proportionally to the net maximum capacity of physical unit during the delivery period, if it is not possible to clearly indicate separate expenditure assigned to a given physical unit according to the completed scope of works.

- 7.4.5.6. The common installation referred to in Section 7.4.5.4 is defined as each device or technological system whose operation is necessary for a physical unit to be able to operate at net maximum capacity, on the assumption that all technologically combined physical units operate simultaneously.
- 7.4.5.7. The entity drawing up an independent study may be only an entity with documented experience in consulting, studies, research and analysis of a technical and economic nature in the energy generation sector or expert work for the power sector, including in particular:
- 1) a state research institute within the meaning of the Act on Research Institutes of 30 April 2010;
  - 2) a technical school of higher education or university of technology within the meaning of the Higher Education Law Act of 27 July 2005.
- 7.4.5.8. The entity drawing up an independent study can be an entity meeting the following conditions:
- 1) the entity and members of the team drawing up an independent study shall be independent of the capacity provider or the physical unit owner and they shall not participate in the capacity provider's or the physical unit owner's decision-making process;
  - 2) the entity and members of the team drawing up an independent study shall take necessary measures to ensure that its independent preparation is not influenced by any real or potential conflict of interests or any other direct or indirect relations between the capacity provider or the physical unit owner with the entity, members of the team drawing up the study, members of the network or association to which the entity belongs, management of the entity or persons linked to them by control within the meaning of Article 4 (4) of the Competition and Consumer Protection Act of 16 February 2007;
  - 3) the entity and members of the team drawing up an independent study shall not engage in any activities on terms and in a manner that could enable the capacity provider or physical unit owner or entity linked by equity to the capacity provider or physical unit owner to exert an undesirable influence on the content of an independent study or otherwise compromise the objectivity of the study.
- 7.4.5.9. The capacity provider shall attach to each independent study statements by the entity drawing up the independent study, to the effect that the requirements specified in Section 7.4.5.8 have been met, in the form of Appendix 7.7 to the Rules.
- 7.4.6. Obtaining confirmation of compliance with the requirements for metering systems of units connected to the transmission grid**
- 7.4.6.1. In case of positive verification by the TSO, under Section 6.3.3.4, at the general certification stage, of compliance with the requirements referred to in Section 21, forming simultaneously the confirmation referred to in Section 7.4.2.1 (5) or Section 7.4.2.12 (6), for a given physical unit and metering points in the transmission grid, the capacity provider may, no later than 10 calendar days before the commencement of certification for the main auction or certification for additional auctions, request the TSO to provide such confirmation:
- 1) electronically through the register, or
  - 2) in writing – if the register does not provide relevant functionalities in this regard.
- 7.4.6.2. In response to the request referred to in Section 7.4.6.1, the TSO shall, no later than the commencement date of certification for the main auction or certification for an additional auction, perform verification of compliance of metering systems with the requirements referred to in Section 21 and record post the verification result in the register. If the verification result is positive, a confirmation recorded in the register shall eliminate the need to attach to the application for certification for the main auction or certification for

additional auctions the confirmation referred to in Section 7.4.2.1 (5) and Section 7.4.2.12 (6), for a given physical unit, with regard to metering points in the transmission grid.

## **7.5. Certificate**

### **7.5.1. Content of the certificate**

7.5.1.1. The certificate issued to the capacity provider for a capacity market unit shall contain:

- 1) certificate number;
- 2) certificate issue date;
- 3) designation of the entity issuing the certificate;
- 4) identification data of the capacity market unit;
- 5) identification data of the capacity provider;
- 6) delivery period to which the certificate relates;
- 7) qualification of the capacity market unit in accordance with Section 7.2.1 or 7.2.2;
- 8) identification of the capacity auction covered by the certificate;
- 9) confirmation of admission to secondary trading;
- 10) information on eligibility for the bonus referred to in Section 17.3;
- 11) indication of the status of price maker or price taker assigned to the capacity market unit;
- 12) capacity obligation volume to be offered in the capacity auction to which the certification applied;
- 13) product of net maximum capacity and de-rating factor;
- 14) for a refurbishing capacity market unit – capacity obligation volume to be offered in the capacity auction in the event refurbishment is abandoned;
- 15) for capacity market units authorised to enter, in the course of the main auction. into a capacity agreement providing for a capacity obligation covering more than one delivery period – information on the number of delivery periods for which the capacity provider intends to enter into a capacity agreement as a result of the main auction,

7.5.1.2. The template certificate forms Appendix 7.8 to the Rules.

### **7.5.2. Provisory certificates**

7.5.2.1. A provisory certificate issued to the capacity provider for a new generating capacity market unit and an unproven demand side response capacity market unit shall contain:

- 1) provisory certificate number;
- 1) certificate issue date;
- 2) designation of the entity issuing the certificate;
- 3) identification data of the capacity market unit;
- 4) identification data of the capacity provider;
- 5) delivery period to which the certificate relates;
- 6) qualification of the capacity market unit in accordance with Section 7.2.1 or 7.2.2;
- 7) capacity obligation volume to be offered in the capacity auction to which the certification applied;
- 8) product of net maximum capacity and de-rating factor referred to in Section 8.2.1 (1) (j);

- 9) for an unproven demand side response capacity market unit – the total capacity of planned physical demand side response units forming part of the capacity market unit;
- 10) information on the capacity provider's commitment to establish the collateral referred to in Article 50 (1) of the Act;
- 11) the bank account number in IBAN format to which the collateral shall be paid.

7.5.2.2. The template provisory certificate forms Appendix 7.9 to these Rules.

**7.5.3. Certificate validity period**

- 7.5.3.1. A certificate issued for a capacity market unit shall be valid until the end of the delivery period concerned or until it is terminated, subject to Article 23a of the Act..
- 7.5.3.2. A certificate issued for a capacity market unit that has not been covered by the capacity obligation may be terminated after the completion of the auction at the capacity provider's request.
- 7.5.3.3. Termination of a certificate at the capacity provider's request shall be conditional on the capacity market unit to which the certificate relates having no future capacity obligations during the certificate validity period.
- 7.5.3.4. In order to terminate the certificate, the capacity provider shall request the TSO to terminate the certificate with the use of the register.
- 7.5.3.5. The register user authorised to submit the application for termination referred to in Section 7.5.3.4, shall be a person meeting the requirements specified in Section 4.1.6.
- 7.5.3.6. Based on an analysis of final results of the capacity auction and transactions made in the secondary market, the TSO shall confirm termination of the certificate within 7 working days.
- 7.5.3.7. The capacity provider shall be informed about termination of the certificate through the register and by a message sent to the capacity provider's email address.

## **8. Parameters of the capacity auction**

### **8.1. General rules for setting, approval and publication of capacity auction parameters**

8.1.1. Capacity auctions shall be held with the use of the so-called capacity auction parameters.

8.1.2. Capacity auction parameters include the following values:

1) for the main auction:

- a) PZM – Auction Target Capacity – forecasted capacity demand in a capacity auction, expressed in MW;
- b) CeWe – the market entry price of a new generating unit reflecting the alternative cost of power generation by the operator by constructing a generating unit at the lowest operating and capital fixed costs, taking into account the potential margin on the sale of electricity and the provision of the ancillary services referred to in Article 9c (2) (8) of the Energy Law Act, expressed in PLN/kW/year;
- c) A – the factor increasing the price referred to in subsection (b), used to calculate the maximum price applicable in the auction;
- d) X – the parameter determining the volume of capacity below the demand referred to in subsection (a) for which the price reaches the maximum value referred to in subsection (b), expressed in %;
- e) Y – the parameter determining the volume of capacity above the demand referred to in subsection (a) for which the price reaches the minimum value of 0.01 PLN/kW/month, expressed in %;
- f) price-taker threshold – the maximum price specified for the price taker, determined on the basis of capital and operating fixed costs, expressed in PLN/kW/year;
- g) the maximum number of auction rounds;
- h) the maximum capacity obligation volumes for the zones referred to in Article 6 (6) of the Act, expressed in MW;
- i) minimum capacity obligation volumes expected to be acquired as a result of additional auctions for individual quarters of the delivery year to which the main auction relates, expressed in MW;
- j) de-rating factors for individual groups of technology of energy production;
- k) the unit level of capital expenditure relating to net maximum capacity, prerequisite for qualification of a capacity market unit as a new generating capacity market unit eligible to offer capacity obligations for not more than 15 delivery periods in the main auction, expressed in PLN/kW;
- l) the unit level of capital expenditure relating to net maximum capacity, prerequisite for qualification of a capacity market unit as a new generating capacity market unit or a refurbishing generating capacity market unit or a demand side response capacity market unit eligible to offer capacity obligations for not more than 5 delivery periods in the main auction, expressed in PLN/kW.

2) for additional auctions – the parameters referred to in subsection (1) (a) – (h), calculated for delivery quarters and the parameters referred to in subsection (1) (j), which applied during the main auction for the same delivery year.

### **8.2. Rules for the calculation of the proposed values of capacity auction parameters**

#### **8.2.1. Parameters determining the capacity demand curve**

8.2.1.1. The parameters PZM, CeWe, A, X and Y shall determine the capacity demand curve in accordance with the figure below:

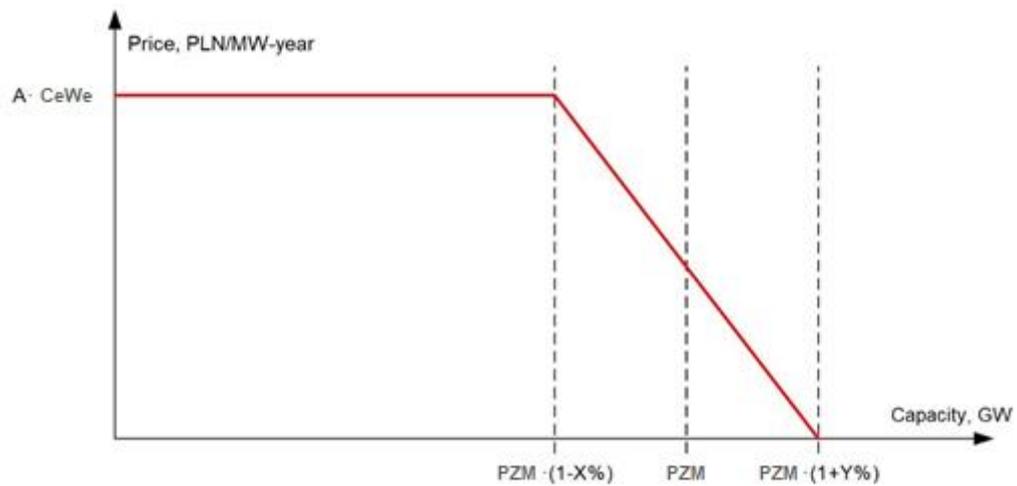


Fig. 8.2.1.1 – Capacity demand curve (illustrative drawing)

8.2.1.2. PZM is the capacity volume that should be purchased for a given delivery period.

8.2.1.3. PZM shall be calculated in the course of stochastic analysis of multiple scenarios based on the following relationships:

1) it is determined whether there is a capacity imbalance using the formula:

$$ENSh_i^{S,q}(PZM^q) = \begin{cases} 1 & \text{for } PZM^q - (P_i^{S,q} + NAD - \Delta_i^{S,q}) < 0 \\ 0 & \text{for } PZM^q - (P_i^{S,q} + NAD - \Delta_i^{S,q}) \geq 0 \end{cases}$$

where:

- $i$  – means a successive hour of analysis in a given quarter;  $q$  – means a quarter of the year;
- $S$  – means a scenario;
- $PZM^q$  – means the calculated forecasted capacity demand in a given quarter  $q$ ;
- $P_i^{S,q}$  – means the forecasted grid demand in hour  $i$ , under scenario  $S$  in a given quarter  $q$ ;
- $NAD$  – means the required capacity surplus above the forecasted grid demand;
- $\Delta_i^{S,q}$  – means the available capacity that does not participate in the capacity market in hours  $i$ , under scenario  $S$  and in a given quarter  $q$ ;
- $ENSh_i^{S,q}$  – indicates whether there is a balance (operation result equal to 0) or imbalance (operation result equal to 1) of capacity in hour  $i$ , under scenario  $S$  and in a given quarter  $q$ .

- 2) for each quarter, PZM<sup>q</sup> (PZM<sup>1</sup>, PZM<sup>2</sup>, PZM<sup>3</sup>, PZM<sup>4</sup>) is calculated, for which the expected value of the number of hours in which imbalance occurs meets the assumed safety standard:

$$\bigwedge_{q \in \{1,2,3,4\}} \bigvee_{PZM^q} \mathbb{E} \left( \sum_{i=1}^j ENSh_i^{S,q}(PZM^q) \right) \leq LOLE^q$$

where:

- $j$  – means the number of hours in a given quarter;
- $LOLE^q$  – means the quarterly standard of security of electricity supply to end-users for a delivery year, taking into account the standard of security for a delivery year;
- $\mathbb{E}$  – means Loss of Load Expectation.

8.2.1.4. The scenarios for PZM calculation for a given delivery period include hourly forecasts of grid demand and available capacity of generating units that do not participate in the capacity market in accordance with the provisions of Article 33 of the Act.

8.2.1.5. The capacity surplus value above the forecasted grid demand takes into account:

- 1) the reserve capacity to ensure frequency control;
- 2) reliability of generating units forming part of end-users' installations generating electricity for their own use.

The surplus shall remain fixed over the whole delivery period and it is expressed in MW.

8.2.1.6. Available capacity that does not participate in the capacity market shall be calculated as the sum of:

- 1) available capacity of units that do not participate in the capacity market owing to their participation in other capacity mechanisms or the use of public support/state aid systems, or other units that do not participate in auctions and will be available in the PPS;
- 2) capacity obligations for a given delivery period, resulting from capacity agreements concluded as a result of capacity auctions (in the case of an additional auction, it also includes capacity obligations purchased in the main auction for the same delivery period);
- 3) in the case of the main auction – the capacity intended for purchase in an additional auction for the same delivery year.

8.2.1.7. PZM can be calculated for more than one alternative set of assumptions including, among other things:

- 1) capacity provided by interconnectors that do not participate in the capacity market;
- 2) maximum capacity of generating units that do not participate in the capacity market;
- 3) total energy demand or peak demand for capacity in the PPS.

The final choice of PZM shall be made on the basis of stochastic methods or the method of minimising maximum losses in relation to an optimum decision.

8.2.1.8. PZM shall be calculated for each quarter. The lowest value of four quarterly PZMs shall determine the maximum capacity for purchase in the main auction.

8.2.1.9. Capacity intended for purchase in an additional auction for the same delivery year shall be determined taking into account the expected supply of capacity in an additional auction.

## 8.2.2. Price levels in the capacity auction

8.2.2.1. The proposed cost of entry of a new generating unit (CeWe) referred to in Section 8.1.2 (1) (b), estimated at price levels for a given delivery year, shall be calculated on the basis of:

- 1) estimated capital and capital expenditure for generating unit construction;
- 2) estimated fixed operating costs;
- 3) expected variable costs of electricity generation;
- 4) estimated revenue resulting from the potential margin on the sale of electricity and the provision of ancillary services referred to in Article 9c (2) (8) of the Energy Law Act,

for the assumed operation time and regime, based on the results of the PPS operation simulations.

8.2.2.2. The maximum price specified for the price taker (price-taker threshold) referred to in Section 8.1.2 (1) (f), estimated at price levels for a given delivery year, shall be determined on the basis of typical fixed capital and operating costs calculated with the use of statistical data and data acquired by the TSO in certification processes.

## 8.2.3. Technical parameters of the capacity auction

8.2.3.1. The parameters X and Y can be calculated on the basis of the values of equivalent parameters used in other countries in which capacity markets operate.

## 8.2.4. De-rating factors

8.2.4.1. The TSO shall propose values of de-rating factors for the technology groups created on the basis of the generating technologies specified in Section 6.2.2.3 in combination with the basic source of primary energy defined in Section 6.2.2.4, save that one coefficient may be common to many generating technologies. The list of technology groups for which the de-rating factor is calculated is provided in Appendix 8.1 to the Rules.

8.2.4.2. The TSO shall calculate proposed values of de-rating factors in accordance with Article 18 (2) of the Act. In the absence of the data referred to in Article 18 (2) of the Act, the TSO shall calculate the proposed values of availability coefficients on the basis of historical data for units situated outside the PPS, and, in the absence of such data, on the basis of other reliable and verifiable methods, including expert, simulation, predictive methods and comparative analyses.

8.2.4.3. For the purposes of calculation of proposed values of de-rating factors for intermittent generation technologies, the TSO may use operation probability analyses for the generating unit concerned at a specified capacity for a continuous period of at least 4h.

8.2.4.4. The proposed values of de-rating factors fall within the range from 0 to 100% and shall be determined with an accuracy of two decimal places.

## 8.2.5. Unit level of capital expenditure

8.2.5.1. The proposed unit levels of capital expenditure referred to in Section 8.1.2 (1) (k) and (l) shall be determined separately for:

- 1) new capacity market units that will be eligible to offer capacity obligations for not more than 15 delivery periods in the main auction;
- 2) new capacity market units, refurbishing capacity market units and demand side response capacity market units that will be eligible to offer capacity obligations for not more than 5 delivery periods in the main auction;

8.2.5.2. The proposed unit levels of capital expenditure shall apply in the case of:

- 1) new capacity market units – capital expenditure for a physical generating unit forming part of capacity market unit, which justifies the application of capacity agreements for not more than 15 delivery periods in the main auction;
- 2) refurbishing generating capacity market units – capital expenditure for the construction of new technological systems or related to operations on existing systems for technological purposes of the unit, which justifies the application of capacity agreements for not more than 5 delivery periods in the main auction;
- 3) demand side response capacity market units – capital expenditure for adjusting the customer's equipment to enable it to provide demand side response services, build an energy storage or internal electricity generating unit that will form part of the electricity end-user's equipment, which justifies the application of capacity agreements for not more than 5 delivery periods in the main auction.

8.2.5.3. Proposed unit levels of capital expenditure shall be determined taking into account estimated data concerning expenditure for the construction or refurbishment of generating units.

#### 8.2.6. **Parameters concerning the participation of foreign capacity**

8.2.6.1. The maximum capacity obligation volumes referred to in Section 8.1.2 (1) (h) shall be calculated for each of the zones referred to in Article 6 (6) of the Act.

8.2.6.2. The maximum capacity obligation volumes for each zone shall be forecasted on the basis of a mid-term assessment of electricity generation adequacy (Mid-term Adequacy Forecast) developed cyclically by ENTSO-E, hereinafter referred to as "report" or "MAF process".

8.2.6.3. For the purposes of preparing the parameters referred to in Section 8.1.2 (1) (h), the TSO shall use the same methodology and the same data as other European transmission system operators in the MAF report process.

8.2.6.4. To determine maximum capacity obligations, the TSO shall use the latest final MAF reports published by ENTSO-E and results calculated for the nearest calendar year which is nearest to and not later than the analysed delivery period.

8.2.6.5. Maximum capacity obligations shall be calculated as available capacity during system stress events forecasted in the MAF or during periods of low levels of available capacity reserves if there is no sufficient number of system stress events forecasted in the MAF. The forecast result shall be a population of Monte Carlo samples representing maximum capacity obligation volumes. Owing to potentially high dispersion of samples, the value of maximum capacity obligation volumes shall be calculated as:

- 1) arithmetic mean population if the variation coefficient (relative standard deviation) is smaller than or equal to 50%;
- 2) the 25th percentile if the variation coefficient (relative standard deviation) is greater than 50%.

The variation coefficient is defined as the ratio of standard deviation to the arithmetic mean of Monte Carlo samples.

## **9. Capacity auctions**

### **9.1. Capacity auction participants and organisation rules**

- 9.1.1. Capacity auctions shall be held in relation to capacity market units.
- 9.1.2. In the course of an auction, the representations referred to in Section 9.2.2 may be made only by register users with bidder rights in relation to a given capacity provider.
- 9.1.3. Capacity auctions shall be held by the TSO in electronic form with the use of the register.
- 9.1.4. Not later than 14 calendar days before a capacity auction, the TSO shall publish on its website a detailed schedule of the capacity auction, specifying:
  - 1) the capacity auction start time;
  - 2) the start and end time of each capacity auction round;
  - 3) starting prices of individual capacity auction rounds;
  - 4) in the case of the main auction: the total volume of capacity obligations offered by capacity providers, rounded to 1,000 MW;
  - 5) in the case of additional auctions: the total volume of capacity obligations offered by capacity providers for individual quarters of the delivery year, rounded to 500 MW.
- 9.1.5. Additional auctions for all quarters of the delivery year shall be held in parallel.
- 9.1.6. Capacity auctions shall be held on working days.
- 9.1.7. A capacity auction round is defined as a period determined by the start and end times, during which the capacity provider may submit, with the use of the register, in relation to a capacity market unit:
  - 1) an exit bid,  
and additionally
  - 2) in the case of a new capacity market unit, refurbishing capacity market unit or demand side response capacity market unit, for which the capacity provider offers a capacity obligation for more than one delivery period – a representation declaring the minimum price of a multi-year capacity obligation,
  - 3) in the case of a refurbishing generating capacity market unit – a statement of intent to abandon refurbishment, including the minimum price of the refurbishment – such notice to be simultaneously treated as an exit bid in relation to the volume representing the difference between the capacity obligation volume offered for the refurbishing capacity market unit and the capacity obligation volume offered in the event of refurbishment opt-out.
- 9.1.8. The duration of one round in a capacity auction shall not be less than 25 minutes.
- 9.1.9. Publishing the information referred to in Article 30 (8) of the Act on its website prior to the commencement of each round, the TSO shall round off the total volume of capacity obligations offered by capacity providers at a price not higher than the starting price for the round to:
  - 1) 1,000 MW – for the main auction;
  - 2) 500 MW – for additional auctions.

### **9.2. Capacity auction procedure**

#### **9.2.1. General rules**

- 9.2.1.1. Prices of capacity obligations during capacity auctions shall be expressed in PLN per kilowatt per year, with an accuracy of PLN 0.01.
- 9.2.1.2. The time applicable during capacity auctions shall be the time of the servers hosting the register. Server time shall be synchronised with the public time server operated by the

Central Office of Measures and it shall be relevant to the time zone applicable within the territory of the Republic of Poland.

- 9.2.1.3. In the course of a capacity auction, the register shall display the time referred to in Section 9.2.1.2 to users with an accuracy of 1 second.
- 9.2.1.4. A capacity auction and each capacity auction round shall start by activating relevant functionalities of the register that allow the auction participants to make the representations specified in Section 9.1.7.
- 9.2.1.5. An auction round shall be completed by deactivating the register functionalities referred to in Section 9.2.1.4.
- 9.2.1.6. A capacity auction shall be held in the opt-out mode, which means that in the absence of a representation constituting an exit bid by the capacity provider in a given capacity auction round shall be treated as acceptance of the starting price of the subsequent round or, in the case of the last round, the minimum auction price of PLN 0.12 per kilowatt per year (PLN 0.01 per kilowatt per month).
- 9.2.1.7. All capacity market units for which the TSO has issued a certificate and capacity providers have submitted, in the course of main certification, a representation declaring participation in a given capacity auction, shall participate in the capacity auction.
- 9.2.1.8. The auction shall end in accordance with the capacity auction resolution rules described in Section 9.2.3, provided that a capacity auction may be completed in any capacity auction round.
- 9.2.1.9. Verification of the terms of capacity auction conclusion shall take place after the end of each capacity auction round, during technical breaks.
- 9.2.1.10. In the event a capacity auction is found to have not been concluded in a given capacity auction round, the TSO shall publish information in accordance with Section 9.1.9.
- 9.2.1.11. In the event a capacity auction is found to have been concluded in a given capacity auction round:
  - 1) the TSO shall publish on its website information on conclusion of the capacity auction,
  - 2) by means of the register and an email message on conclusion of the capacity auction shall be sent to the capacity providers,
  - 3) a subsequent capacity auction round shall not be started.
- 9.2.1.12. In the event of failure of the ICT system supporting capacity auctions and if auctions are withheld or suspended pursuant to Article 35 (1) (2) of the Act, the TSO shall publish on its website, if technically possible, information on:
  - 1) withholding or suspending a capacity auction – including the expected time of its commencement or resumption,
  - 2) resuming the capacity auction – including the time of commencement of a subsequent auction round,and shall send relevant notices by electronic mail to the capacity providers eligible for participation in the auction concerned.
- 9.2.1.13. In the event a capacity auction is withheld by the President of ERO pursuant to Article 35 (1) (1) of the Act, the TSO shall, if technically possible, publish information resulting from the decisions of the President of ERO in the manner described in Section 9.2.1.12.

## 9.2.2. **Representations made in the course of the capacity auction**

- 9.2.2.1. In the course of one capacity auction, the capacity provider's representations referred to in Section 9.1.7 for one capacity market unit may be submitted in any capacity auction round, subject to Section 9.2.2.7.

- 9.2.2.2. The capacity provider's representations referred to in Section 9.1.7 for one capacity market unit made in a given capacity auction round may be modified or withdrawn only during that round.
- 9.2.2.3. Making a representation constituting an exit bid for a capacity market unit shall end the participation of the unit in a given capacity auction, hence it will no longer be possible to make the representations referred to in Section 9.1.7 (2) and (3) at a later time.
- 9.2.2.4. An exit bid shall contain a price which is binding for resolution of a capacity auction. In the case an exit bid is submitted, the bid price shall be treated as the minimum price at which the capacity provider is ready to enter into a capacity agreement for that capacity market unit. Until the exit bid is submitted, the minimum price at which the capacity provider is ready to enter into a capacity agreement for that capacity market unit shall be calculated in accordance with the rules described in Section 9.2.1.6.
- 9.2.2.5. In the case the representation referred to Section 9.1.7 (2) has been made for a capacity market unit, an exit bid may be submitted only at a price lower than the price declared in the representation.
- 9.2.2.6. In the case the representation referred to Section 9.1.7 (3) has been made for a capacity market unit, an exit bid may be submitted only with a price lower than the price declared in the representation and not higher than the maximum price set for units with the price-taker status.
- 9.2.2.7. In a given capacity auction round, the register shall not allow the representations referred to in Section 9.1.7 to be made at a price:
- 1) higher than the starting price for the round concerned;
  - 2) equal to or higher than the starting price of a subsequent round or equal to or lower than the minimum auction price – for the last round.
- 9.2.2.8. By making the representation referred to in Section 9.1.7 (2), the capacity provider shall state the minimum price of the multi-year capacity obligation.
- 9.2.2.9. The making of the representation referred to in Section 9.1.7 (2) shall not affect the progress of the capacity auction, provided that where the price resulting from the capacity auction for the capacity market unit to which the representation relates is set below the price given in the representation, the duration of the capacity obligation for that unit shall be reduced to one delivery period.
- 9.2.2.10. By making the representation referred to in Section 9.1.7 (3), the capacity provider shall state the minimum refurbishment price referred to in Article 30(9) of the Act.
- 9.2.2.11. The making of the representation referred to in Section 9.1.7 (3) shall not affect the progress of the capacity auction, subject to Section 9.2.2.12 – 9.2.2.13.
- 9.2.2.12. If the capacity auction has ended in the capacity auction round in which the representation referred to in Section 9.1.7 (3) has been made, then:
- 1) if the set capacity obligation price for that unit is higher than the minimum refurbishment price – the capacity agreement shall be concluded for the refurbishing capacity market unit;
  - 2) if the set capacity obligation price for that unit is lower than the minimum refurbishment price – the capacity agreement shall be concluded for one delivery period, and the refurbishing capacity market unit shall become an existing capacity market unit with the price-taker status, provided that the capacity obligation volume equals the value referred to in Section 7.5.1.1 (14);
  - 3) if the set capacity obligation price for that unit is equal to the minimum refurbishment price – in accordance with the net welfare algorithm described in Section 9.2.4 – the capacity agreement shall be concluded for a refurbishing capacity market unit as provided in subsection (1) or, for an existing capacity market unit, as provided in subsection (2);
- 9.2.2.13. If the capacity auction has not been concluded in the capacity auction round in which the representation referred to in Section 9.1.7 (3) has been made, that unit shall become an

existing capacity market unit with the price-taker status, provided that the capacity obligation volume offered equals the value referred to in Section 7.5.1.1 (14).

**9.2.3. Conclusion of the capacity auction**

9.2.3.1. The capacity auction shall end after the conclusion of the last capacity auction round or after the conclusion of the round as a result of which, after exit bids and refurbishment opt-out notices have been taken into account, the remaining volume of capacity obligations is not greater than the demand resulting from the capacity demand curve for the starting price of a subsequent round. An illustrative chart of the capacity auction process is shown in the figure below:

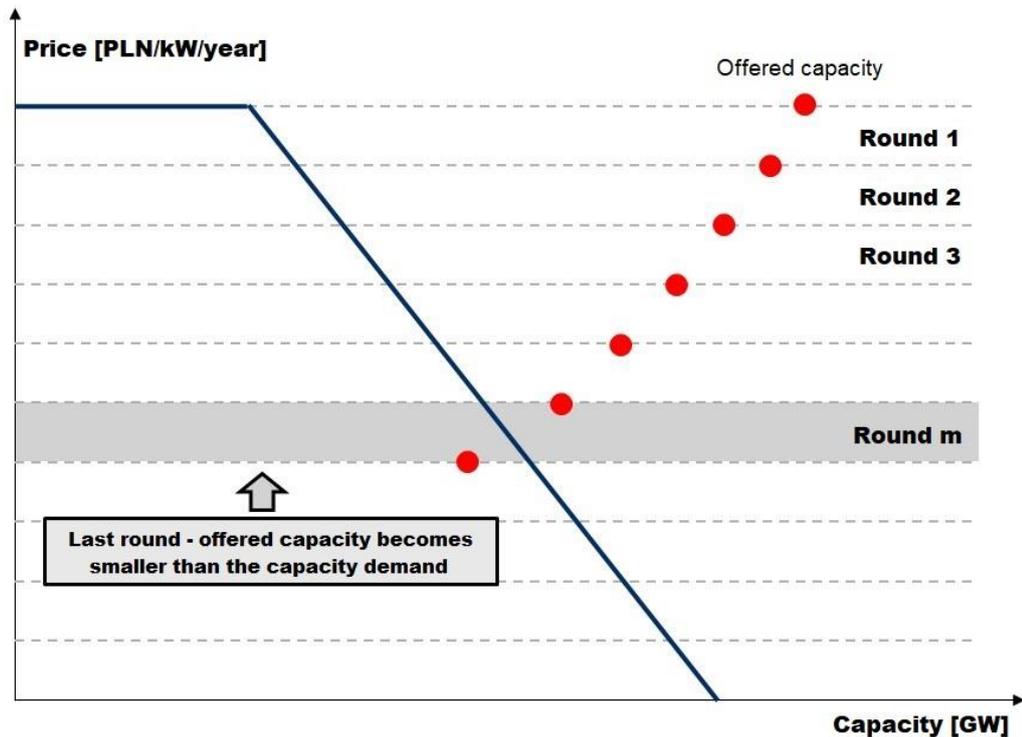


Fig. 9.2.3.1 – Illustrative chart of the capacity auction process.

9.2.3.2. After the conclusion of the capacity auction, bids shall be ranked from the lowest to the highest price, forming a non-decreasing demand curve, where the first bid is a bid at the lowest exit price.

9.2.3.3. Where several bids have the same price, they shall be ranked on the demand curve first according to the consecutive lowest unit carbon dioxide emission factors and then according to the exact time of submission of bids as recorded in the register.

9.2.3.4. For ranking purposes, in accordance with Section 9.2.3.3, carbon dioxide emission factors shall be assumed, equal to:

- 1) zero – for demand side response capacity market units consisting only of physical demand side response unit without an internal energy source or planned demand side response units;
- 2) carbon dioxide emission factor indicated in the application for certification – in the case of generating capacity market units and demand side response units, comprising at least one physical demand side response unit with internal energy source;

- 3) a factor equivalent to the unit carbon dioxide emission factor for electricity generated for end users, expressed in g/kWh net, resulting from the most recent data published by the National Center for Emission Balancing and Management (KOBiZE), for a given zone referred to in Article 6 (6) of the Act – in the case of capacity market units consisting of physical interconnector units.

9.2.3.5. In order to determine the volume and price of capacity obligations, the net welfare algorithm shall be used, described in Section 9.2.4, subject to the provisions of Section 9.2.3.7 – 9.2.3.8.

9.2.3.6. The result of a capacity auction shall be capacity obligations of individual capacity market units with prices assigned to them and the period to which they relate.

9.2.3.7. The price of capacity obligations for capacity market units consisting of physical cross-border units or capacity market units consisting of interconnector physical units shall be determined as:

- 1) the auction clearing price determined in accordance with the net welfare algorithm referred to in Section 9.2.4 – in the case of a capacity market unit consisting of interconnector physical units,
- 2) the price of the last accepted bid submitted for a capacity market unit consisting of physical cross-border units situated in the same zone – in the case of a capacity market unit consisting of physical cross-border units situated in one of the zones referred to in Article 6 (6) of the Act.

9.2.3.8. The net welfare algorithm shall not apply where:

- 1) the sum of capacity obligations resulting from bids situated below the capacity demand curve, including the bid intersecting the capacity demand curve, is equal to the demand resulting from the capacity demand curve - in such a case, the auction clearing price shall be the bid price intersecting the capacity demand curve, and capacity agreements shall be entered into for bids situated below the capacity demand curve, including also for the bid determining the auction clearing price, or
- 2) at least one bid is situated entirely on the capacity demand curve and, at the same time, there is no bid situated partially on the capacity demand curve - in such a case, the auction clearing price is the maximum price applicable in the auction, and capacity agreements are concluded for the bids situated below the capacity demand curve and all bids situated entirely on the capacity demand curve.

#### 9.2.4. **Net welfare algorithm**

9.2.4.1. After the conclusion of a given round referred to in Section 9.2.3.1 and after the demand curve has been created as set forth in Section 9.2.3.2 and 9.2.3.3, subject to meeting the condition of indivisibility of capacity obligations offered by individual capacity market units, the following points shall be determined on the demand curve:

- 1) the bottom point of the demand curve:
  - a) in the case the capacity demand curve intersects or is below the first exit bid, situated above the starting price of a subsequent round or the minimum auction price (for the last round) or where no exit bid has been submitted in a given round – as the point with an ordinate equal to the starting price of a successive round or the minimum auction price (for the last round) and an abscissa equal to the total volume of capacity obligations offered at a price not higher than the starting price of a successive round or the minimum auction price (for the last round), or
  - b) in the case the capacity demand curve intersects the second or successive exit bid situated above the starting price of a successive round – as the point with an ordinate equal to the price of the last exit bid before the exit bid that was intersected by the capacity demand curve and an abscissa equal to the total volume of capacity obligations, where the last bid is a bid lying before the exit bid that was intersected by the capacity demand curve, or

- c) in the case the capacity demand curve does not intersect any exit bid and an exit bid has been submitted in a given round, situated in its entirety below the capacity demand curve – as the point with an ordinate equal to the price of the last exit price lying in its entirety below the demand curve and an abscissa equal to the total volume of capacity obligations, where the last bid is the last bid lying in its entirety below the capacity demand curve;
- 2) the top point of the demand curve:
- a) in the case the capacity demand curve lies above the last exit bid, situated below the starting price of the round or where no exit bid has been submitted in the round – as a point with an ordinate equal to the starting price of the round in which the auction was concluded and an abscissa equal to the total volume of capacity obligations offered at a price not higher than the starting price of the round, or
  - b) in the case the capacity demand curve intersects the exit bid – the point with an ordinate equal to the price of the bid intersected by the capacity demand curve and an abscissa equal to the total volume of capacity obligations, where the last bid is a bid intersected by the capacity demand curve, or
  - c) in the case the capacity demand curve does not intersect any submitted exit bid and an exit bid has been submitted in a given round, situated in its entirety above the capacity demand curve – as the point with an ordinate equal to the price of the first exit bid situated in its entirety above the demand curve and an abscissa equal to the total volume of capacity obligations, where the last bid is the bid lying in its entirety above the capacity demand curve.

9.2.4.2. The purpose of the net welfare algorithm is to identify the bids that will enter into a capacity agreement as a result of the capacity auction concerned.

9.2.4.3. For auction conclusion, the difference shall be calculated between the additional capacity value resulting from the capacity demand curve and the cost of purchase of additional capacity, in accordance with the following formula:

$$\int_{P_d}^{P_g} Z(P) \cdot dP - (P_g \cdot C_g - P_d \cdot C_d)$$

where:

- $P_g$  – means the capacity obligation volume at the top point of the demand curve,
- $P_d$  – means the capacity obligation volume at the bottom point of the demand curve,
- $C_g$  – means the price at the top point of the demand curve,
- $C_d$  – means the price at the bottom point of the demand curve,
- $Z(P)$  – means the function representing the price depending on the capacity demand, calculated on the basis of the capacity auction parameters.

9.2.4.4. If the value of additional capacity is greater than the cost of additional capacity, i.e. where:

$$\int_{P_d}^{P_g} Z(P) \cdot dP - (P_g \cdot C_g - P_d \cdot C_d) > 0$$

the purchase of additional capacity is considered beneficial and the capacity auction ends with the auction clearing price  $C_g$  and capacity obligation volume  $P_g$ . The purchase of additional capacity is considered beneficial and the capacity auction ends with the auction clearing price  $C_d$  and the capacity obligation volume  $P_d$ .

- 9.2.4.5. The result of the net welfare algorithm shall be calculated by the TSO and taken into account in the results of a capacity auction.

## **10. Substitution of a planned demand side response unit**

### **10.1. General rules**

- 10.1.1. Substitution of a planned demand side response unit shall be performed by the TSO in coordination with the DSOc in order to obtain information on physical demand side response units substituting a planned demand side response unit and enter such units into the register.
- 10.1.2. Substitution of planned demand side response units with one or more physical demand side response units shall be performed only in the case the capacity provider has obtained a certificate in main certification for a demand side response capacity market unit which consisted of at least one planned demand side response unit.
- 10.1.3. Capacity providers shall participate in substituting a planned demand side response unit by submitting an application for substitution of a planned demand side response unit, hereinafter referred to as "substitution application".
- 10.1.4. The register user authorised to submit the substitution application shall be a person meeting the requirements specified in Section 4.1.6.
- 10.1.5. Substitution of a planned demand side response unit must take place not later than the submission of the demand side response performance test application referred to in Section 15.4.
- 10.1.6. Physical units substituting a planned demand side response unit must not consist of the units referred to in Article 16(2) of the Act.
- 10.1.7. The planned demand side response unit for which the capacity value indicated in the application for certification, referred to in Section 7.4.2.12 (7), is not greater than 50 MW, may be substituted by:
  - 1) one physical demand side response unit with a maximum demand side response capacity equal to the capacity volume indicated in the application for certification, or
  - 2) a group of physical demand side response units whose total maximum demand side response capacity equals the capacity volume indicated in the application for certification.
- 10.1.8. The planned demand side response unit for which the capacity volume indicated in the application for certification referred to in Section 7.4.2.12 (7) is greater than 50 MW can be substituted by only one physical demand side response unit with a maximum demand side response capacity equal to the capacity volume indicated in the application for certification.
- 10.1.9. A planned demand side response unit forming part of a demand side response capacity market unit may not be substituted by one or more physical demand side response units comprising at least one generating unit that exceeds the emission limit.
- 10.1.10. The capacity provider whose substitution application has been granted shall obtain an entry in the register for the physical demand side response units substituting the planned demand side response unit, thereby making the capacity market unit comprising the substituted planned demand side response unit eligible for notification of readiness for the demand side response performance test in accordance with Section 15.
- 10.1.11. Refusal of the substitution application shall render it impossible to notify readiness for the test referred to in Section 15 of the capacity market unit comprising the planned demand side response unit.

### **10.2. Rules for the submission of substitution applications**

- 10.2.1. A substitution application may be submitted by the capacity provider only through the register.
- 10.2.2. One substitution application shall relate to one planned demand side response unit.

- 10.2.3. The capacity provider shall attach to the substitution application the required documents in electronic form, certified as true copies with the capacity provider's qualified electronic signature.
- 10.2.4. The capacity provider may submit a substitution application not earlier than on the date of publishing the final auction results, but no later than 3 months prior to the commencement of:
- 1) the delivery period for which a capacity agreement has been concluded - if the substituted planned demand side response unit is a part of the capacity market unit covered by the capacity agreement;
  - 2) the last quarter of the delivery year specified in the certificate - if the substituted planned demand side response unit is a part of the capacity market unit not covered by the capacity agreement.
- Substitution applications submitted at other times shall not be considered by the TSO.
- 10.2.5. If a substitution application is submitted for a physical demand side response unit forming part of the capacity market unit for which the certificate has already been issued for the same delivery period, the application shall not be considered, of which the TSO shall inform the capacity provider through the register and by notice sent automatically to the email address of the register user.
- 10.2.6. The substitution of the planned demand side response unit shall be effective for all capacity market units, which comprise this planned demand side response unit.
- 10.2.7. Submission of a substitution application shall be confirmed by relevant information concluded the register by the TSO. A notice of the above information having been entered shall also be sent automatically to the register user's email address.

### **10.3. Content of the substitution application**

- 10.3.1. The substitution application shall contain:
- 1) the information referred to in Section 6.3.2.1 (1) and (3) – (7);
  - 2) power of attorney of the register user to represent the applicant, submitted in accordance with Section 4.1.6 (2) – if the register user is not a capacity provider or is not authorised for sole representation of the capacity provider or has failed to demonstrate its authorisation in accordance with Section 4.1.19;
  - 3) the information referred to in Section 7.4.2.12 (5) – (6) and (9) – (15);
  - 4) authorisation to dispose of a physical unit for the purpose of substitution of the planned demand side response unit and dispose of this physical unit for the needs of the capacity market processes as a capacity provider, drawn up in accordance with Appendix No. 4.4 to the Rules.
- 10.3.2. Details referred to in Section 7.4.2.12 (11) include the values determined for the calendar year preceding the year in which the substitution application is submitted and, where these values are not available, the forecast values for the first delivery year.

### **10.4. Substitution application evaluation process and criteria**

- 10.4.1. Substitution applications shall be considered by the TSO. In verifying the applications, the TSO shall cooperate with the relevant DSOc.
- 10.4.2. Consideration of a substitution application shall involve the verification of:
- 1) the data and information submitted for completeness;
  - 2) submission of appendices to the application using forms or templates required by the Rules;

- 3) submission of the required documents confirming the authorisation of the capacity provider and the register user submitting the application, in accordance with Sections 4.1.6 and 4.1.9;
  - 4) compliance of the data submitted with the register data of each entity;
  - 5) conformity of the technical and location data submitted with the information available to the TSO and the relevant DSOs;
  - 6) correctness of designation of the relevant DSOc and its branch for each metering point – in the case referred to in Section 6.3.2.1 (6);
  - 7) correctness of designation of the relevant DSO – in the case referred to in Section 6.3.2.1 (6) (d);
  - 8) correctness of assigned metering point codes;
  - 9) completeness of the power supply system of the unit concerned;
  - 10) compliance of metering/billing systems with the technical requirements specified in IRIESP or the relevant IRiESD in the delivery period provided for in the capacity auction as a result of which the capacity obligation has covered the capacity market unit comprising the substituted planned demand side response unit;
  - 11) the capability of remote acquisition of hourly metering/billing data and their transmission to the TSO on a daily basis.
- 10.4.3. The relevant DSOc shall participate in the verification referred to in Section 10.4.2 by evaluating the information referred to in:
- 1) Section 6.3.2.1 (4) and (6), and 7.4.2.12 (5) – in the case of a substitution application relating to a physical demand side response unit connected to the distribution grid, which is to substitute the planned demand side response unit;
  - 2) Section 6.3.2.1 (6) and 7.4.2.12 (5) – in the case of a substitution application relating to a physical demand side response unit connected both to the distribution and transmission grid, which is to substitute the planned demand side response unit;
- as set forth in Section 18.
- 10.4.4. In considering the substitution applications in accordance with Sections 10.4.2 – 10.4.3, the TSO and relevant DSOs shall rely on data and information: provided with the application, held in their own systems and obtained from publicly available reliable and verifiable sources.
- 10.4.5. Subject to Section 10.5, the TSO shall refuse to substitute a planned demand side response unit in the case the substitution application fails to comply with the requirements set forth in the Rules, in particular where:
- 1) the data submitted is found to be incomplete or incorrect;
  - 2) appendices to the application have been submitted using forms or templates inconsistent with the Rules;
  - 3) the data submitted is inconsistent with the register data of the respective entities;
  - 4) the relevant authorisation of the capacity provider or register user has not been demonstrated;
  - 5) the substitution application covers a physical demand side response unit comprising a generating unit that exceeds the emission limit;
  - 6) the technical or location data provided are inconsistent with the information available to the TSO or relevant DSOs.
- 10.4.6. The TSO shall process the substitution application within 30 calendar days from the date of its submission.
- 10.4.7. Positive verification of the substitution application results in substitution of the planned demand side response unit with the physical demand side response units indicated in the application.

- 10.4.8. Consideration of the substitution shall be confirmed by an entry in the register and a notice sent automatically to the register user's email address.

#### **10.5. Supplementing the substitution application**

- 10.5.1. If an application is found to fail to meet the requirements set out in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the application, setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be conveyed by notice sent automatically to the register user's email address.
- 10.5.2. If the capacity provider, while having been requested by the TSO to do so, has not rectified formal defects or deficiencies of the substitution application within the time limit set by the TSO, the TSO shall refuse to substitute a planned demand side response unit with physical demand side response units, informing the capacity provider thereof without delay by making a relevant entry in the register. Information on refusal to substitute a planned demand side response unit with physical demand side response units shall also be conveyed by notice sent automatically to the register user's email address.
- 10.5.3. The TSO's information on refusal to substitute a planned demand side response unit with physical demand side response units shall specify the reasons.
- 10.5.4. In the case of the TSO's decision refusing to substitute a planned demand side response unit with physical demand side response units, the capacity provider shall have the rights set forth in Section 19 – "Complaint procedure".

## **11. Capacity agreement**

### **11.1. Template capacity agreement**

- 11.1.1. The Template Capacity Agreement forms Appendix 11.1 to the Rules.
- 11.1.2. The Template Capacity Agreement referred to in Section 11.1.1 shall not apply to a capacity agreement resulting from conversion of the agreement referred to in Article 6 (3) of the Act.
- 11.1.3. An amendment to the Template Capacity Agreement forming an appendix to the Rules shall be made by amending the Rules.

### **11.2. Confirmation of Conclusion of Capacity Agreement**

- 11.2.1. As of the conclusion of a capacity agreement, the TSO shall enable a Confirmation of Conclusion of Capacity agreement (CCCA) to be generated from the register, containing at least the following elements:
  - 1) the confirmation identification number and generation date;
  - 2) the capacity agreement number and conclusion date;
  - 3) identification data of the capacity provider and the capacity market unit;
  - 4) indication of the capacity auction or transaction in the secondary market as a result of which the capacity agreement has been concluded;
  - 5) duration of the capacity obligation;
  - 6) capacity obligation price.
- 11.2.2. The CCCA shall not be of itself a source of any rights and obligations between parties to a capacity agreement, nor shall it establish any legal relationship with third parties.
- 11.2.3. The CCCA shall take into account register entries relevant or relating to the capacity market unit covered by the capacity agreement as at the date of its downloading (generation) from the register.

## **12. Secondary market**

### **12.1. General principles**

12.1.1. Secondary market transactions shall include:

- 1) transferring the capacity obligation of a capacity market unit in whole or in part to another capacity market unit, hereinafter referred to as the “secondary trading transaction” – in relation to the future part of the delivery period;
- 2) reallocation of a performed capacity obligation volume between capacity market units, hereinafter referred to as the “reallocation transaction” – in relation to non-performance of the capacity obligation by one capacity market unit and excess capacity obligation performance by another capacity market unit.

12.1.2. Secondary market transactions shall be made by capacity providers in any form, without the TSO’s participation.

12.1.3. In order to provide the TSO with information on the conclusion of a secondary market transaction, the capacity provider being the first party to the transaction referred to in Section 12.2.5 (1) or 12.3.4 (1) shall notify the transaction through the register, and the capacity provider being the other party to the transaction referred to in Section 12.2.5 (2) or 12.3.4 (2) shall confirm this notification in the register.

12.1.4. A secondary market transaction may be notified and the notification may be confirmed only by the register user acting as a bidder for a given capacity provider.

12.1.5. The moment of providing the TSO with information on the conclusion of the transaction on the secondary market shall be the moment of confirmation of the notification of a given transaction by the capacity provider being the other party to the transaction covered by the notification.

12.1.6. The TSO shall verify the submitted secondary market transaction notification in terms of compliance with the conditions referred to in Article 48 (1) and (2) of the Act and, depending on the type of transaction, in Section 12.2.6 or in Section 12.3.5..

12.1.7. The TSO shall verify the submitted secondary market transactions concerning the same capacity market units in the order of their submission to the TSO, starting from the notifications submitted at the earliest.

12.1.8. Where a transaction notified to the TSO does not meet the conditions referred to in Article 48 (2) of the Act or Section 12.2.6 or Section 12.3.5, the TSO shall, within 3 working days after the notification, raise an objection to such transaction using the register and by automatically sending an email message. If such objection is made, the transaction shall be deemed null and void in relation to the TSO.

12.1.9. If the transaction was notified in the register by a person who did not have the appropriate authorisation to represent capacity providers, in accordance with Section 12.1.4, the transaction shall be deemed null and void in relation to the TSO. The TSO shall declare the transaction null and void through the register and by automatically sending an email message.

12.1.10. In the event of the TSO’s objection against a transaction, the parties to the transaction concerned acting jointly shall have the rights set forth in Section 19 – “Complaint procedure”.

### **12.2. Secondary trading**

12.2.1. For the purposes of secondary trading transactions, capacity obligations may be subject to division both in the domain of time and capacity.

12.2.2. The minimum capacity obligation volume to which a secondary trading transaction may relate shall be specified in a regulation issued under Article 68 of the Act. The minimum capacity obligation volume is defined as the minimum capacity volume and the minimum duration of the capacity obligation which may be subject to secondary trading.

- 12.2.3. As a result of a secondary trading transaction, only capacity obligations of individual capacity market units shall be transferred, while the transfer of the capacity obligation to another capacity market unit shall not affect the price of the capacity obligation being transferred.
- 12.2.4. Transfer of the capacity obligation of one capacity market unit to another capacity market unit as a result of conclusion of a secondary trading transaction in accordance with Article 48 (1) (1) of the Act shall be treated as:
- 1) amendment of the capacity agreement for the capacity market unit from which the capacity obligation is transferred – if the capacity obligation is transferred in part;
  - 2) termination of the capacity agreement from which the capacity obligation is transferred – if the capacity obligation is transferred in whole;
- and
- 3) conclusion of the capacity agreement – for a capacity market unit which is not covered by the capacity obligation, or
  - 4) amendment of the capacity agreement – for a capacity market unit covered by the capacity agreement.
- 12.2.5. The capacity provider referred to in Section 12.1.3:
- 1) being the first party to the secondary trading transaction – shall be the capacity provider disposing of the capacity obligation;
  - 2) being the other party to the secondary trading transaction – shall be the capacity provider acquiring the capacity obligation.
- 12.2.6. Secondary trading transactions must not concern the transfer of a capacity obligation from a capacity market unit in a volume exceeding the volume of a given capacity obligation held by that capacity market unit in the period to which the transaction relates

### **12.3. Reallocation**

- 12.3.1. The notifications of reallocation transactions concerning the system stress event in the month *m* must be submitted to the TSO within 5 working days from the date referred to in Section 16.9.8.
- 12.3.2. For the purposes of the reallocation transaction, the volume of the capacity obligation performance may be divided in the domain of capacity.
- 12.3.3. The minimum capacity obligation performance volume to which a reallocation transaction may relate shall be specified in a regulation issued under Article 68 of the Act.
- 12.3.4. The capacity provider referred to in Section 12.1.3:
- 1) being the first party to the reallocation transaction – shall be the capacity provider disposing a capacity market unit whose volume of the capacity obligation non-performance, determined in accordance with Section 16.2.37, is greater than zero;
  - 2) being the other party to the reallocation transaction – shall be the capacity provider disposing a capacity market unit whose volume of the excess capacity obligation performance, determined in accordance with Section 16.2.38, is greater than zero.
- 12.3.5. The sum of the volume of reallocated capacity obligation performance, being the subject of reallocation transactions concerning the same system stress event, notified in the register for a given capacity market unit, may not exceed the volume of the excess capacity obligation performance of that unit, determined in accordance with Section 16.2.38.
- 12.3.6. The TSO shall allow the reallocation transaction notification to be withdrawn before the end of 1 working day following the date on which the transaction was notified in the register.
- 12.3.7. In order to withdraw the reallocation transaction notification, each capacity provider being a party to that transaction shall confirm the withdrawal of the notification in the register.
- 12.3.8. The withdrawal of the reallocation transaction notification referred to in Section 12.3.7 may only be confirmed by register users acting as bidders for the capacity provider concerned.

## **13. Collateral**

### **13.1. Legal basis**

- 13.1.1. The provisions of this chapter shall apply insofar as they are not contrary to the provisions of the regulation issued under Article 51 (1) of the Act.
- 13.1.2. The parties required to post a collateral for the benefit of the TSO shall be:
  - 1) the capacity provider who has obtained the provisory certificate referred to in Section 7.5.2 for a new generating capacity market unit or an unproven demand side response capacity market unit – in accordance with Article 50 (1) of the Act,
  - 2) the pre-auction participant – in accordance with Article 50 (1) of Act.
- 13.1.3. Detailed conditions and the manner of posting the collateral are specified in a regulation issued under Article 51 (1) of the Act.

### **13.2. Forms of collateral**

- 13.2.1. The forms of collateral shall be specified in a regulation issued under Article 51 (1) of the Act.
- 13.2.2. Collateral may be posted in several forms simultaneously, provided that all the forms of collateral meet the requirements, and the total value thereof is not lower than the required value.

### **13.3. Detailed requirements for collateral posted in the form of cash**

- 13.3.1. Collateral in the form of cash shall be deemed properly established if paid within the required deadline, in the correct amount and currency to the TSO's designated bank account.
- 13.3.2. The time limit for the establishment of collateral in the form of cash shall be as specified in the regulation issued under Article 51 (1) of the Act.
- 13.3.3. Collateral in the form of cash shall be deemed to be established at the date at which the TSO's bank account is credited with the relevant amount.
- 13.3.4. Collateral in the form of cash shall be established in Polish currency.
- 13.3.5. For a new generating capacity market unit and an unproven demand side response capacity market unit, collateral in the form of cash shall be established in the bank account stated in the provisory certificate, in accordance with Section 7.5.2.1 (11). The transfer description should specify:
  - 1) capacity market unit code;
  - 2) provisory certificate number.
- 13.3.6. For a physical cross-border unit, collateral in the form of cash shall be established in the bank account stated in the register. The transfer description should specify:
  - 1) details of the pre-auction participant, i.e. the name of the entity or the first name and surname for a natural person;
  - 2) identifier equivalent to the Polish KRS (commercial register) number or the PESEL (personal identification) number or the passport number (where there is no PESEL number) of the pre-auction participant.
- 13.3.7. The time limit for the return of collateral in the form of cash shall be as specified in the regulation issued under Article 51 (1) of the Act and in Article 54 of the Act.
- 13.3.8. The time limit for the return of collateral in the form of cash shall be the date at which the TSO's bank account is debited.
- 13.3.9. Collateral in the form of cash shall be returned:
  - 1) by funds transfer;

- 2) to the account designated in accordance with Section 5.2.2.4 (6) or 7.4.2.1 (2) (j).
- 13.3.10. A change in the bank account number to which collateral in the form of cash is to be returned shall require a relevant application to be filed with the TSO through the register, signed by the capacity provider authorised to dispose of the capacity market unit concerned or by the pre-auction participant.
- 13.3.11. For the calculation of interest due on funds, the actual number of calendar days of funds being held in the TSO's bank account shall be taken into account. The amount of funds held in the TSO's bank account shall bear interest from the day specified in Section 13.3.3 to the day preceding the day specified in Section 13.3.8.
- 13.3.12. Interest shall be charged as at the date of return of collateral in the form of cash.

#### **13.4. Detailed requirements for collateral posted in the form of bank guarantee or insurance guarantee**

- 13.4.1. Collaterals in the form of a bank guarantee or insurance guarantee shall be established in the following forms:
- 1) in writing, or
  - 2) electronic form (within the meaning of Article 78<sup>1</sup> of the Civil Code).
- 13.4.2. Collateral in the form of a bank guarantee or insurance guarantee shall be deemed properly established if delivered to the TSO in the original copy, in the case referred to in Section 13.4.1 (1), or sent to the e-mail address: [rynek.mocy@pse.pl](mailto:rynek.mocy@pse.pl), in the case referred to in Section 13.4.1 (2), within the required deadline, in the correct amount and currency, and with the suitable content.
- 13.4.3. Bank guarantees and insurance guarantees submitted to the TSO as collateral must be irrevocable, unconditional and payable on the first demand.
- 13.4.4. The TSO shall accept bank guarantees and insurance guarantees drawn up in Polish.
- 13.4.5. The capacity provider shall submit a bank guarantee in the form of Appendix 13.1 to the Rules.
- 13.4.6. The capacity provider shall submit an insurance guarantee in the form of Appendix 13.2 to the Rules.
- 13.4.7. The capacity provider shall attach to each bank guarantee and insurance guarantee a power of attorney authorising the persons issuing the respective guarantee to sign them, together with documents confirming the right to represent the persons granting the power of attorney.
- 13.4.8. Bank guarantees and insurance guarantees submitted to the TSO as collateral shall be issued by parties with sufficient credit standing, meeting the requirements set forth in the regulation issued under Article 51 (1) of the Act.
- 13.4.9. Collateral in the form of bank guarantee or insurance guarantee established for a shorter period than the required collateral period shall be allowed to be accepted, subject to the subsequent submission of a new collateral before the expiry of the existing collateral.
- 13.4.10. The new collateral referred to in Section 13.4.9 must be submitted to the TSO before the expiry of the validity period of the existing security, within the time limit specified in the regulation issued under Article 51 (1) of the Act.
- 13.4.11. If the capacity provider does not submit new collateral within the time limit set forth in Section 13.4.10, the TSO shall change the form of collateral to collateral in the form of cash, through payment from the existing collateral.
- 13.4.12. Failure to submit new collateral shall constitute an event of default under the capacity agreement.
- 13.4.13. Collateral in the form of bank guarantee or insurance guarantee shall be deemed established at:

- 1) delivery of the original bank guarantee or insurance guarantee document to the general secretary office in the registered office of the TSO at the address: Polskie Sieci Elektroenergetyczne S.A., 05-520 Konstancin-Jeziorna, ul. Warszawska 165, no later than by 3.00 p.m. on the last day for establishing the collateral specified in the regulation issued on the basis of Article 51 (1) of the Act, in the case referred to in Section 13.4.1 (1), or
- 2) sending the bank guarantee or insurance guarantee document in electronic form to the e-mail address [rynek.mocy@pse.pl](mailto:rynek.mocy@pse.pl), which must bear a qualified electronic signature affixed by persons authorised to represent the issuer of the guarantee document on the basis of an entry in the relevant register or by persons holding a relevant power of attorney to represent the issuer of the guarantee document in the case referred to in Section 13.4.1 (2).

13.4.14. Collateral shall be returned by way of:

- 1) returning the original bank guarantee or insurance guarantee by registered mail against acknowledgement of receipt to the issuer of the guarantee document, with a copy to the capacity provider, or
- 2) collection of the original bank guarantee or insurance guarantee by a person authorised to represent the authorised capacity provider or authorised representative of the issuer of the guarantee document against written confirmation of receipt,

in the case referred to in Section 13.4.1 (1), or

- 3) submission of the declaration on the release of the bank guarantee or insurance guarantee in electronic form to the e-mail address of the issuer of the guarantee document, with a copy to the capacity provider in the case referred to in Section 13.4.1 (2).

13.4.15. Collateral in the form of bank guarantee or insurance guarantee shall be deemed returned at:

- 1) the date of posting the original bank guarantee or insurance guarantee by registered mail against acknowledgement of receipt to the issuer of the guarantee document, with a copy to the capacity provider, or
- 2) the date of collection of the original bank guarantee or insurance guarantee by a person authorised to represent the authorised capacity provider or authorised representative of the issuer of the guarantee document,

in the case referred to in Section 13.4.1 (1), or

- 3) the date of sending the e-mail with the declaration on the release of the bank guarantee or insurance guarantee in electronic form to the e-mail address of the issuer of the guarantee document, with a copy to the capacity provider – in the case referred to in Section 13.4.1 (2).

### **13.5. Detailed requirements for collateral posted in the form of suretyship agreement**

13.5.1. At the request of the capacity provider, the TSO may accept as collateral the conclusion of a suretyship agreement with a designated entity with sufficient financial standing, meeting the requirements set forth in the regulation issued under Article 51 (1) of the Act.

13.5.2. Collaterals in the form of a suretyship agreement shall be established in the following forms:

- 1) in writing, or
- 2) electronic form (within the meaning of Article 78<sup>1</sup> of the Civil Code),  
subject to Section 13.5.6.

13.5.3. The date of delivery of the suretyship agreement to the TSO shall be:

- 1) the date of delivery of the original suretyship agreement together with the declaration referred to in Section 13.5.6, to the general secretary office in the registered office of the

TSO at the address: Polskie Sieci Elektroenergetyczne S.A., 05-520 Konstancin-Jeziorna, ul. Warszawska 165 – in the case referred to in Section 13.5.2 (1), or

- 2) the date of sending the suretyship agreement in electronic form to the e-mail address [rynek.mocy@pse.pl](mailto:rynek.mocy@pse.pl) or the date of delivery of the declaration referred to in Section 13.5.6, to the general secretary office in the registered office of the TSO at the address: Polskie Sieci Elektroenergetyczne S.A., 05-520 Konstancin-Jeziorna, ul. Warszawska 165, whichever is later – in the case referred to in Section 13.5.2 (2).

- 13.5.4. The suretyship agreement between the TSO and the entity referred to in Section 13.5.1 should be concluded within the time limit prescribed by the regulation issued under Article 51 (1) of the Act.
- 13.5.5. The template suretyship agreement forms Appendix 13.3 to the Rules.
- 13.5.6. As security for the suretyship agreement, the entity referred to in Section 13.5.1 shall make a representation to the effect that it submits to enforcement in the form of notarial deed under Article 777 § 1 (5) of the Code of Civil Procedure.
- 13.5.7. The excerpt of the notarial deed referred to in Section 13.5.6 shall be delivered to the TSO in the original copy.

### **13.6. Exemption from the obligation to establish collateral**

- 13.6.1. The capacity provider shall be exempted from the obligation to establish collateral in the case referred to in Article 50 (2) of the Act.
- 13.6.2. In case referred to in Section 13.6.1, if the rating falls below the level specified in the regulation issued under Article 51 (1) to the Act, the capacity provider shall be required to establish collateral in accordance with the requirements set forth in the regulation.
- 13.6.3. Failure to post collateral shall provide a basis for the TSO to terminate the capacity agreement.

### **13.7. Management of changes to collateral**

- 13.7.1. A change of the form of collateral or change of the issuer of a document of collateral established in a non-cash form shall be possible subject to prior establishment of collateral in a new form or submission of a collateral document issued by another issuer.
- 13.7.2. The term of collateral may be extended by establishing a new collateral or extension of the existing collateral within the time limit specified in the regulation issued under Article 51 (1) of the Act.
- 13.7.3. If collateral has been posted in a non-cash form, for which a rating is required at the level specified in the regulation issued under Article 51 (1) of the Act and the rating level has fallen below the required level, the capacity provider shall immediately, but no later than 7 calendar days after having obtained relevant information, inform the TSO through the register thereof and establish new collateral in accordance with the requirements set forth in the regulation.
- 13.7.4. In the case the TSO is first to obtain the information referred to in Section 13.7.3, the TSO shall request the capacity provider, through the register, to establish new collateral in accordance with the requirements set forth in the regulation issued under Article 51 (1) of the Act.

## **14. Monitoring of the capacity agreement**

### **14.1. Monitoring of capacity agreements covering capacity obligations for a period of more than one year**

#### **14.1.1. Financial Commitment Milestone**

- 14.1.1.1. The capacity provider who has concluded a capacity agreement relating to a new or refurbishing generating capacity market unit as a result of the auction shall be required to demonstrate, no later than 24 months after the notice of final auction results, that the capacity market unit in its disposal has achieved the Financial Commitment Milestone (FCM).
- 14.1.1.2. The FCM shall be achieved by the capacity provider demonstrating that the requirements set forth in Article 52 (1) (1) and (2) of the Act have been met.
- 14.1.1.3. In order to meet the requirements referred to in Section 14.1.1.2, the capacity provider shall provide to the TSO, through the register, a declaration confirming compliance with the FCM, hereinafter referred to as the "FCM declaration", drawn up in accordance with Appendix 14.1 to the Rules.
- 14.1.1.4. The register user authorised to submit the FCM declaration shall be a person who meets the requirements specified in Section 4.1.6.
- 14.1.1.5. The capacity provider shall submit the FCM declaration no later than within the time limit specified in Section 14.1.1.1. Declarations submitted by the capacity provider after this date shall not be considered, with the effect specified in Section 14.1.1.12.
- 14.1.1.6. Submission of the FCM declaration shall be confirmed by the TSO entering relevant information into the register. A notice of entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.1.1.7. Within 14 calendar days of receipt of the FCM declaration from the capacity provider, the TSO shall verify its content for completeness and compliance with the requirements referred to in Article 52 (1) (1) and (2) of the Act, and set out in the Rules.
- 14.1.1.8. Positive verification of the FCM declaration is confirmed by the TSO by making an entry in the register of relevant information on meeting the FCM in relation to the capacity market unit covered by the declaration. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.1.1.9. If the FCM declaration is found to be incomplete or doubts arise as to its content, in particular where the declaration fails to meet the requirements set out in Article 52 (1) (1) and (2) of the Act or in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the declaration, specifying such formal defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be sent automatically to the register user's email address.
- 14.1.1.10. In the course of the verification referred to in Section 14.1.1.7 the TSO may request the capacity provider to provide, through the register, selected documents specified in the FCM declaration.
- 14.1.1.11. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall not confirm meeting the FCM with respect to the capacity market unit covered by the declaration, which shall be immediately reported to the capacity provider by including relevant information in the register. A notice of making an entry of such information shall also be sent automatically to the register user's email address.
- 14.1.1.12. If the capacity provider:
  - 1) has failed to submit the FCM declaration within the time limit specified in Section 14.1.1.1, or
  - 2) has not remedied any formal defects or formal deficiencies within the time limit set by the TSO and the time limit referred to in Section 14.1.1.1, has expired,

the TSO shall declare that the FCM is not met by the capacity market unit concerned, which shall be immediately reported to the capacity provider, including relevant information in the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address. In such a case, the provisions of Article 46 (1) (1), Article 46 (2) and Article 47 (1) of the Act shall apply.

#### 14.1.2. Substantial Completion Milestone

- 14.1.2.1. The capacity provider who, as a result of the main auction, has concluded a capacity agreement for more than 1 delivery year shall be required to demonstrate, no later than the beginning of the first delivery period, and in the case of a new generating capacity market unit, not later than before the end of the third delivery year or before the end of the capacity agreement, if it was concluded for less than three delivery years, that the capacity market unit in its disposal has achieved the Substantial Completion Milestone (SCM).
- 14.1.2.2. The SCM shall be achieved by the capacity provider demonstrating that the requirements set forth in Article 52 (2) of the Act have been met.
- 14.1.2.3. In order to meet the requirements referred to in Section 14.1.2.2, the capacity provider, with respect to the new or refurbishing generating capacity market unit in its disposal, shall deliver to the TSO, through the register, a declaration confirming meeting the SCM, hereinafter referred to as the "SCM declaration", which contains:
- 1) a declaration confirming the delivery of capacity to the system by the capacity market unit for a continuous period of at least one hour, representing not less than 95% of the capacity obligation resulting from the capacity agreement concluded for this capacity market unit in the course of the main auction, containing a list of metering points assigned to the physical unit forming part of a given capacity market unit, prepared in accordance with Appendix 14.15 to the Rules;
  - 2) an independent study confirming compliance with the requirements referred to, respectively, in Article 52 (2) (3) (a) - (c) of the Act with respect to the new or refurbished capacity market unit;
  - 3) declaration on incurring capital expenditure in the amount not lower than the required level, calculated as the product of the net maximum capacity of a given capacity market unit and the unit level of capital expenditures specified for a given main auction, prepared in accordance with Appendix 14.2 to the Rules;
  - 4) representation on completion of the substantive and financial schedule of the investment project, prepared in accordance with Appendix 14.3 (a new generating capacity market unit) or 14.4 (refurbishing generating capacity market unit) to the Rules;
  - 5) representation on the value of state aid granted, prepared in accordance with Appendix 14.5 to the Rules;
- 14.1.2.4. In order to meet the requirements referred to in Section 14.1.2.2, the capacity provider, with respect to the demand side response capacity market unit in its disposal, shall deliver SCM declaration to the TSO, through the register, containing:
- 1) an independent study confirming compliance with the requirements referred to in Article 52 (2) (3) (a)-(ba) of the Act, with respect to the demand side response capacity market unit;
  - 2) declaration on incurring capital expenditure in the amount not lower than the required level, calculated as the product of the net maximum capacity of a given capacity market unit and the unit level of capital expenditures specified for a given main auction, prepared in accordance with Appendix 14.2 to the Rules;
  - 3) declaration on completion of the substantive and financial schedule for the investment project, prepared in accordance with Appendix 14.1 to the Rules.
- 14.1.2.5. The register user authorised to submit the SCM declaration shall be a person who meets the requirements specified in Section 4.1.6.

- 14.1.2.6. The capacity provider shall be required to submit the SCM declaration no later than within the time limit specified in Section 14.1.2.1. Declaration submitted by the capacity provider after this date shall not be considered, with the effect specified in Section 14.1.2.13.
- 14.1.2.7. Submission of the SCM declaration by the capacity provider shall be confirmed by the TSO by entering relevant information into the register. A notice of making entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.1.2.8. Within 14 calendar days of receipt of the SCM declaration from the capacity provider, the TSO shall verify its content for completeness and compliance with the requirements referred to in Article 52 (2) of the Act, and set out in the Rules.
- 14.1.2.9. Positive verification of the SCM declaration is confirmed by the TSO by making an entry in the register of relevant information on meeting of the SCM in relation to the capacity market unit covered by the declaration. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.1.2.10. If the SCM declaration is found to be incomplete or doubts arise as to their content, in particular where the declaration fails to meet the requirements set out in Article 52 (2) of the Act or in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the declaration, specifying such formal defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be sent automatically to the register user's email address.
- 14.1.2.11. In the course of the verification referred to in Section 14.1.2.8, the TSO may request the capacity provider to furnish, through the register, selected documents specified in the SCM declaration.
- 14.1.2.12. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall not confirm meeting the SCM with respect to the capacity market unit covered by the declaration, which shall be immediately reported to the capacity provider by including relevant information in the register. A notice of making an entry of such information shall also be sent automatically to the register user's email address.
- 14.1.2.13. If the capacity provider:
- 1) has failed to submit the FCM declaration within the time limit specified in Section 14.1.2.1, or
  - 2) has not remedied any formal defects or formal deficiencies within the time limit set by the TSO and the time limit referred to in Section 14.1.2.1 has expired,
- the TSO shall declare that the SCM is not met by the capacity market unit concerned, which the TSO shall immediately report to the capacity provider, including relevant information in the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address. In such a case, the provisions of Article 46 (1) (2), Article 46 (2) and (3), and Article 47 (1) of the Act shall apply.
- 14.1.2.14. The capital expenditures indicated in the SCM declaration shall cover the period from the beginning of the year in which the main auction was held, as a result of which the capacity market unit was covered by the capacity agreement, until the date of submission of the SCM declaration.
- 14.1.2.15. If, following the date of submission of the documents referred to in Section 14.1.2.3, the value of the state aid granted has changed in relation to the value indicated in the declaration referred to in Section 14.1.2.3 (5), the capacity provider shall provide the TSO through the register with the corrected declaration prepared in accordance with Appendix 14.5 to the Rules, not later than prior to the commencement of the first delivery period.
- 14.1.2.16. In the course of preparation of the declaration in accordance with Appendix 14.15 to the Rules, with respect to the generating capacity market units, which part of their electricity generation consume for their own use, i.e. for purposes other than those related to the generation, transmission or distribution of electricity, it is allowed to indicate

measurements on terminals of each generator being a part of a given physical unit or measurements in other places of the internal grid, whereas such data may originate from metering systems or other systems, e.g. SCADA. In the case referred to hereinabove, the demonstration of the possibility of supplying capacity in the amount not lower than 95% of the capacity obligation resulting from the capacity agreement concluded for this capacity market unit in the course of the main auction shall be demonstrated using the abovementioned measurements.

- 14.1.2.17. If the application for the capacity change referred to in Section 14.4.1 is verified positively, as a result of which the net maximum capacity of the physical generating unit will be reduced, the declaration referred to in Section 14.1.2.3 (1) refers to the updated capacity obligation volume.

### 14.1.3. **Monitoring the progress of a project**

- 14.1.3.1. The capacity provider who has concluded, as a result of the main auction, a capacity agreement for more than 1 delivery year:
- 1) with regard to a new or refurbishing generating capacity market unit – has achieved the FCM in accordance with Section 14.1.1;
  - 2) with regard to a demand side response capacity market unit,
- shall be required to submit to the TSO, through the register, a report presenting the current progress of the investment project, hereinafter referred to as the “investment report”.
- 14.1.3.2. The investment report shall be submitted by the capacity provider within 10 working days after the end of each period covering 6 full calendar months, starting from the third year following the year in which the capacity provider concluded a capacity agreement for more than 1 delivery year.
- 14.1.3.3. In order to meet the requirements referred to in Section 14.1.3.1, the capacity provider, with respect to the capacity market unit in its disposal, shall provide the investment report to the TSO through the register, prepared in accordance with Appendix 14.8 (a new generating capacity market unit) or 14.9 (a refurbishing capacity market unit) or 14.10 (a demand side response capacity market unit) to the Rules.
- 14.1.3.4. The register user authorised to submit the investment report shall be a person meeting the requirements specified in Section 4.1.6.
- 14.1.3.5. Where the material scope of the investment project or the value of total capital expenditures indicated in the investment report differs from the value indicated in the last substantive and financial schedule for the investment project submitted to the TSO, the report must take into account the changes in question.
- 14.1.3.6. Changes referred to in Section 14.1.3.5, may not result in reduction of the value of the unit capital expenditures below the unit level of capital expenditures, conditioning the proper qualification of the capacity market unit, specified in the parameters of the main auction referred to in Article 32 (1) (4) of the Act, as a result of which the capacity market unit has concluded the capacity agreement.
- 14.1.3.7. The capacity provider shall submit an investment report no later than within the time limit specified in Section 14.1.3.2. The report sent by the capacity provider after this time shall be not be considered, with the effect specified in Section 14.1.3.13.
- 14.1.3.8. Submission of the investment report by the capacity provider shall be confirmed by the TSO by entering relevant information into the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user’s email address.
- 14.1.3.9. Within 30 calendar days of receipt of the investment report from the capacity provider, the TSO shall verify its content for completeness and compliance with the requirements set out in the Rules.

- 14.1.3.10. A successful verification of the investment report shall be confirmed by the TSO by entering relevant information into the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.1.3.11. Where the investment report is found to be incomplete or doubts arise as to its content, in particular where the report fails to meet the requirements set out in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the report, specifying such formal defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be sent automatically to the register user's email address.
- 14.1.3.12. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall not confirm the fulfilment of the obligation referred to in Section 14.1.3.1, with respect to the capacity market unit concerned, which shall be immediately reported to the capacity provider, including relevant information in the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.1.3.13. If the capacity provider:
- 1) has failed to submit the investment report within the time limit specified in Section 14.1.3.2, or
  - 2) has failed to remedy formal defects or deficiencies within the time limit set by the TSO,
- the TSO confirms failure to meet the obligation referred to in Section 14.1.3.1, with reference to the capacity market unit concerned.
- 14.1.3.14. Failure to meet the obligation referred to in Section 14.1.3.1, by the capacity provider in the cases referred to in Section 14.1.3.13, may constitute an event of default under the capacity agreement.
- 14.1.3.15. If the capacity agreement concerning an unproven demand side response capacity market unit is terminated due to the default referred to in Section 14.1.3.14, the collateral provided with respect to that unit shall be retained or executed by the TSO.
- 14.1.3.16. If the capacity agreement concerning a new capacity market generating unit is terminated due to the default referred to in Section 0, the provisions of Article 47 (4) of the Act shall apply.
- 14.1.3.17. If during the verification referred to in Section 14.1.3.9, the SCM declaration is submitted and as a result of the verification referred to in Section 14.1.2.8 it is examined positively, the investment report shall remain unexamined.

## **14.2. Monitoring of other capacity agreements**

- 14.2.1. The capacity provider who has concluded a capacity agreement:
- 1) for one delivery year in the course of the main auction, relating to an existing generating capacity market unit comprising at least one planned physical generating unit, or
  - 2) for one delivery year in the course of the main auction, relating to a new generating capacity market unit,
- shall be required to provide the TSO, through the register, with documents confirming the investment project progress as set forth in:
- 3) Section 14.2.3 - 14.2.20 – in the case referred to in Subsection (1), or
  - 4) Section 14.2.21 - 14.2.27 – in the case referred to in Subsection (2).
- 14.2.2. The register user authorised to submit the documents referred to in Section 14.2.1 shall be a person meeting the requirements specified in Section 4.1.6.

14.2.3. The capacity provider referred to in Section 14.2.1 (1) shall be required to present to the TSO:

- 1) an up-to-date substantive schedule of the investment project for planned physical generating units forming part of an existing generating capacity market unit, prepared in accordance with Appendix 14.12 to the Rules;
- 2) declaration confirming the delivery of capacity to the system by an existing generating capacity market unit for a continuous period of at least one hour, representing not less than 95% of the capacity obligation resulting from the capacity agreement concluded for this capacity market unit in the course of the main auction, containing a list of metering points assigned to the physical units forming part of a given capacity market unit, prepared in accordance with Appendix 14.15 to the Rules;
- 3) representation on completion of the substantive scope of the project relating to planned physical units forming part of an existing generating capacity market unit, prepared in accordance with Appendix 14.11 to the Rules,

in the manner and within the time limits set out in Sections 14.2.4 – 14.2.20.

14.2.4. The capacity provider shall be required to present to the TSO within the following time limits:

- 1) not later than 24 months from the date of publication of the final results of the capacity auction, and
- 2) 10 working days following the end of each period covering 6 full calendar months, starting from the third year following the year in which the main auction was held, as a result of which the capacity provider concluded the capacity agreement, until the documents specified in Section 14.2.3 (2)- (3), are submitted.

the investment project substantive schedule referred to in Section 14.2.3 (1).

14.2.5. The capacity provider shall provide the investment project substantive schedule referred to in Section 14.2.3 (1) within time limits indicated in Section 14.2.4. The schedule submitted by the capacity provider after this time shall not be considered, with the effect specified in Section 14.2.11.

14.2.6. Submission of the substantive schedule of the project by the capacity provider shall be effected through the register and it shall be confirmed by the TSO entering relevant information into the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.

14.2.7. Within 30 calendar days of receipt of the substantive schedule of the investment project from the capacity provider, the TSO shall verify its content for completeness and compliance with the requirements set out in the Rules.

14.2.8. A successful verification of the substantive schedule of the investment project as referred to in Section 14.2.3 (1) shall be confirmed by the TSO by entering relevant information into the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.

14.2.9. If the substantive schedule of the investment project is found to be incomplete or doubts arise as to its content, in particular where the schedule fails to comply with the requirements set out in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the schedule, specifying such formal defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be sent automatically to the register user's email address.

14.2.10. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall not confirm the submission of the investment project substantive schedule referred to in Section 14.2.4, with respect to the capacity market unit concerned, which shall be immediately reported to the capacity provider, including relevant information in the register. Information on verification of the documents with negative results shall also be sent automatically to the register user's email address.

14.2.11. If the capacity provider:

- 1) has failed to submit the investment project substantive schedule referred to in Section 14.2.3 (1) within the time limits specified in Section 14.2.4, or
  - 2) has failed to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO confirms failure to meet the obligation referred to in Section 14.2.4, for a given capacity market unit.
- 14.2.12. Failure to meet the obligation referred to in Section 14.2.4, by the capacity provider in the cases referred to in Section 14.2.11, may constitute an event of default under the capacity agreement.
- 14.2.13. The capacity provider shall be required to submit the documents referred to in Section 14.2.3 (2)-(3) prior to the commencement of the delivery period for which the capacity agreement has been concluded. The documents sent by the capacity provider after this time limit shall not be considered, with the effect specified in Section 14.2.19.
- 14.2.14. The submission by the capacity provider of the documents referred to in Section 14.2.13 shall be confirmed by the TSO entering relevant information into the register. A notice of making entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.2.15. Within 14 calendar days of receipt of the documents referred to in Section 14.2.13 from the capacity provider, the TSO shall verify their content for completeness and compliance with the requirements set out in the Rules..
- 14.2.16. A successful verification of the documents referred to in Section 14.2.3 (2)-(3) is confirmed by entering relevant information in the register by the TSO. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.
- 14.2.17. If the documents referred to in Section 14.2.13 are found to be incomplete or doubts arise as to their content, in particular where the documents fail to comply with the requirements set out in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the documents, specifying such formal defects or deficiencies in the request and setting a time limit of not less than 3 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be sent automatically to the register user's email address.
- 14.2.18. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall not confirm meeting the requirements specified in Section 14.2.13 with respect to the capacity market unit concerned, which shall be immediately reported to the capacity provider, including relevant information in the register. A notice of such information entry shall also be sent automatically to the capacity register user's address.
- 14.2.19. If the capacity provider:
- 1) has failed to submit the documents referred to in Section 14.2.13, within the time limit specified in Section 14.2.13, or
  - 2) has failed to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO confirms failure to meet the requirements referred to in Section 14.2.13, with reference to the capacity market unit concerned.
- 14.2.20. Failure to submit the documents referred to in Section 14.2.13, by the capacity provider in the cases referred to in Section 14.2.19, may constitute an event of default under the capacity agreement.
- 14.2.21. The capacity provider referred to in Section 14.2.1 (2) shall be required to present to the TSO:
- 1) documents confirming the compliance with the requirements set forth in Article 52 (1) (1) and (2) of the Act, concerning the achievement of the FCM;
  - 2) the investment report prepared in accordance with Appendix 14.8 to the Rules;
  - 3) a declaration confirming the delivery of capacity to the system by a new capacity market unit for a continuous period of at least one hour, representing not less than 95% of the

capacity obligation resulting from the capacity agreement concluded for this capacity market unit in the course of the main auction, containing a list of metering points assigned to the physical unit forming a given capacity market unit, prepared in accordance with Appendix 14.15 to the Rules;

- 4) representation on completion of the substantive and financial schedule of the project, prepared in accordance with Appendix 14.3 to the Rules;
- 5) representation on the value of state aid granted, prepared in accordance with Appendix 14.5 to the Rules,

in the manner and within the time limits set out in Sections 14.2.22 - 14.2.27.

- 14.2.22. Compliance with the requirements referred to in Section 14.2.21 (1) shall be ensured in accordance with Section 14.1.1.
- 14.2.23. The capacity provider shall be required to submit to the TSO, through the register, an investment report referred to in Section 14.2.21 (2), within 10 working days after the end of each period of 6 full calendar months, starting from the third year following the year in which the main auction was held, as a result of which the capacity provider concluded a capacity agreement, until the moment the documents specified in Section 14.2.21 (3) – (5) are presented.
- 14.2.24. The compliance with the requirements referred to in Section 14.2.21 (2) shall be monitored on the terms and conditions set out in Section 14.1.3.
- 14.2.25. In the case the capacity agreement is terminated under Section 0, collateral posted by a new generating capacity market unit shall be retained or used by the TSO.
- 14.2.26. The capacity provider shall be required to submit the documents referred to in Section 14.2.21 (3) – (5), prior to the commencement of the delivery period for which the capacity agreement has been concluded.
- 14.2.27. The requirements referred to in Section 14.2.26 shall be complied with on the terms and conditions set out in Section 14.1.2 with respect to new generating capacity market units, subject to Section 14.1.2.3 (2) and (3).
- 14.2.28. The capacity provider, which has concluded a capacity agreement for one delivery year in the course of the main auction, concerning the refurbishing generating capacity market unit, shall provide the TSO, through the register, with a declaration on the value of the granted state aid, prepared in accordance with Appendix 14.5 to the Rules, no later than before the commencement of the delivery period.
- 14.2.29. If, following the date of submission of the documents referred to in Section 14.2.28, the value of the state aid granted changes in relation to the value indicated in the declaration, the capacity provider shall submit to the TSO via the register the corrected declaration prepared in accordance with Appendix No. 14.5 to the Rules, no later than prior to the commencement of the first delivery period.
- 14.2.30. The register user authorised to submit the document referred to in Section 14.2.28 shall be a person meeting the requirements specified in Section 4.1.6.

### **14.3. Declarations on compliance with the emission limit**

- 14.3.1. After the end of each delivery year, but not later than within 90 calendar days after its end, the capacity provider shall, with respect to each capacity market unit certified for a given delivery year, other than the capacity market unit consisting of physical interconnector units, submits to TSO the declaration referred to in Article 67a (1) (1) or the declaration referred to in Article 67a (1) (2) of the Act, prepared in accordance with Appendix No. 14.14 to the Rules, hereinafter referred to as the “declaration on the emission limit”.
- 14.3.2. For the purpose of submission of the declaration on the emission limit with respect to the delivery year to which the declaration refers, the unit carbon dioxide emission *EJ* referred to in Article 3a (2) of the Act shall be determined for each generating unit being a part of the physical units forming a given capacity market unit.

- 14.3.3. If the physical units forming part of a capacity market unit for which the capacity provider submits a declaration on the emission limit did not include any generating units in a given delivery year, the capacity provider shall submit a declaration on the emission limit together with a declaration on the lack of generating units being a part of the physical units forming a part of given capacity market unit.
- 14.3.4. A declaration on the emission limit may be submitted by the capacity provider only through the register.
- 14.3.5. The register user authorised to submit the declaration on the emission limit shall be a person meeting the requirements specified in Section 4.1.6.
- 14.3.6. One declaration on the emission limit or the emission volume may concern more than one capacity market unit of a given capacity provider.
- 14.3.7. In the case of submission of multiple declarations, prior to the expiry of the deadline referred to in Section 14.3.1, declarations concerning an emission limit for the same capacity market unit with reference to the same delivery year, only the declaration submitted on the latest date shall be considered, whereas earlier declarations shall not be considered.
- 14.3.8. In the case of the declaration on the emission limit for the capacity market units referred to in Article 67a (3) of the Act, the capacity provider shall attach a confirmation of compliance with the facts of the information contained in the declaration, issued by an entity accredited to the extent referred to in point 1a or 1b of Annex I of Commission Implementing Regulation (EU) 2018/2067 of 19 December 2018 on the verification of data and on the accreditation of verifiers under Directive 2003/87/EC of the European Parliament and of the Council (Official Journal of EU L 334 of 31 December 2018, p. 94, as amended).
- 14.3.9. Submission of the declaration on the emission limit is confirmed by entering relevant information in the register by the TSO.
- 14.3.10. Within 10 working days after the expiry of the deadline for submission of declarations concerning the emission limit, the TSO shall verify the submitted declaration and the documents attached thereto.
- 14.3.11. A positive verification of the declaration on the emission limit results in the relevant information being entered in the register.
- 14.3.12. If a declaration on the emission limit is found to be incomplete or doubts arise as to its content, in particular if the declaration was not submitted using the template constituting Appendix No. 14.14, the TSO, using the register, requests the capacity provider to remove the defects or formal deficiencies of the declaration, or to submit explanations or supplements, indicating these defects or formal deficiencies in the request and setting a deadline for their removal, not shorter than 10 working days.
- 14.3.13. In the case of doubts as to the contents of the declaration on the emission limit, in the request referred to in Section 14.3.12, the TSO may additionally require the capacity provider to present the confirmation referred to in Article 67a (4) of the Act, with respect to selected capacity market units,.
- 14.3.14. If the capacity provider fails to remove the formal defects or deficiencies of the declaration on the emission limit or fails to submit explanations or supplements to this declaration within the time limit set by the TSO, and also fails to present the confirmation referred to in Article 67a (3) or (4) of the Act, if this was required, the TSO shall assume that the capacity market unit covered by this declaration has been declared as referred to in Article 67a (1) (2) of the Act, of which TSO shall immediately inform the capacity provider by making a relevant entry in the register.
- 14.3.15. With reference to the entry in the register referred to in Section 14.3.14, the capacity provider shall have the rights set forth in Section 19 – “Complaint procedure”.
- 14.3.16. As referred to in Section 14.3.14, in the case of submission of the declaration on the emission limit with the contents referred to in Article 67a (1) (2) of the Act and in the case referred to in Article 67a (5) of the Act, the TSO shall consider that a given capacity market unit has failed to comply with the emission limit in a given calendar year, which is confirmed by the TSO making a relevant entry in the register by TSO.

14.3.17. For the purpose of reimbursement of the bonus or the remuneration referred to in Article 67a (8) (1) and (3) of the Act, respectively, the provisions of Section 17.1.6 shall apply.

#### **14.4. Change in the maximum capacity of a physical generating unit in accordance with Article 47a of the Act**

14.4.1. Capacity provider which, as a result of the main auction, has concluded a capacity agreement for more than 1 delivery period for a new or refurbishing generating capacity market unit, may apply to the TSO for a change in the net maximum capacity of a physical generating unit being a part of that capacity market unit, hereinafter referred to as the "capacity change application".

14.4.2. The capacity change application shall include at least:

- 1) capacity provider's identification data of the,
- 2) the code of the capacity agreement to which the change relates,
- 3) the code of the physical generating unit whose capacity has changed,
- 4) the changed net maximum capacity of the physical generating unit, expressed in MW, during the delivery period and
- 5) the justification for the capacity change.

14.4.3. Within 14 calendar days of receipt of the capacity change application, the TSO shall verify its contents for compliance with the requirements referred to in Article 47a (1) and (2) of the Act, and set out in the Rules, subject to Section 14.4.4.

14.4.4. If the capacity change application concerns an increase in the net maximum capacity of a physical generating unit by more than 5% of the capacity specified for that unit in the certification for main auction, as a result of which a given capacity market unit concluded that capacity agreement, the TSO shall treat a given capacity change application, for the purpose of changing the product of the net maximum capacity of that capacity market unit and de-rating factor included in the certificate, as an application for capacity increase by the value equal to 5% of the net maximum capacity of a given unit, rounded down with the accuracy of 1 kW.

14.4.5. The register user authorised to submit the capacity change application shall be a person meeting the requirements specified in Section 4.1.6.

14.4.6. A positive verification of the capacity change application shall be confirmed by the TSO making a relevant entry in the register and change in the data in the register in accordance with Article 47a (3) of the Act with respect to the capacity market unit to which the application relates, subject to Section 14.4.4.

14.4.7. Changes referred to in Section 14.4.6, shall apply from the date of submission of the capacity change application.

14.4.8. If the capacity change application does not meet the requirements set out in the Rules or if doubts are found as to its content, the TSO shall request the capacity provider, via the register, to remedy the defects or formal deficiencies of the application, indicating those defects or formal deficiencies in the request and setting a time limit not shorter than 3 working days, for their remedy.

14.4.9. If the capacity provider fails to remedy the defects or formal deficiencies in the capacity change application referred to in Section 14.4.8, in particular, if the requested capacity change concerns the reduction in the net maximum capacity of a physical generating unit by more than 5% of the capacity specified for that unit in the certification for main auction, as a result of which the given capacity market unit concluded that capacity agreement, within the time limit set by the TSO, the TSO shall refuse to change the net maximum capacity of the physical generating unit, of which it shall immediately inform the capacity provider, making a relevant entry in the register.

#### **14.5. Termination of the capacity agreement pursuant to Article 47b of the Act**

- 14.5.1. Capacity provider which, as a result of the main auction, concluded a capacity agreement for more than 1 delivery year for a new generating capacity market unit that fails to comply with the emission limit during the delivery period, may submit a notice of its termination, hereinafter referred to as the “notice of termination of the agreement”
- 14.5.2. The notice of termination of the agreement shall contain at least:
  - 1) capacity provider's identification data of the,
  - 2) code of the terminated agreement,
  - 3) a declaration on the fulfillment of the conditions referred to in Article 47b (1) of the Act.
- 14.5.3. The notice of termination of the agreement may be submitted by the capacity provider only through the register. Submission of the notice of termination of the agreement shall be confirmed by the TSO making a relevant entry in the register.
- 14.5.4. Within 5 working days of receipt of the notice of termination of the agreement, the TSO shall verify its contents for compliance with the requirements referred to in Article 47b (1) of the Act, and set out in the Rules.
- 14.5.5. A positive verification of the notice of termination of the agreement shall be confirmed by the TSO making a relevant entry in the register.
- 14.5.6. If the notice of termination of the agreement does not meet the requirements specified in Article 47b (1) of the Act or specified in the Rules, the TSO shall not confirm the acceptance of the notice, of which it shall immediately inform the capacity provider, making a relevant entry in the register.
- 14.5.7. In the case of positive verification of the notice of termination of the agreement by the TSO, the capacity provider shall, no later than within 14 calendar days from the start of the first delivery period of the terminated agreement, indicate through the register the agreements referred to in Article 47b (3) (1) and (2) of the Act. The information indicating the above-mentioned agreements shall include at least:
  - 1) identification data of the capacity provider that submitted the notice of termination of the agreement;
  - 2) code of the terminated agreement;
  - 3) code of the capacity agreement referred to in Article 47b (3) (1) or (2) of the Act.
- 14.5.8. The capacity provider may indicate the agreements referred to in Article 47b (3) (1) and (2) of the Act, jointly or separately.
- 14.5.9. The register user authorised to submit the notice of termination of the agreement and indicate the agreements referred to in Article 47b (3) (1) (2) of the Act shall be a person meeting the requirements specified in Section 4.1.6.
- 14.5.10. Indication of the agreements referred to in Article 47b (3) (1) and (2) of the Act shall be confirmed by the TSO making a relevant entry in the register.
- 14.5.11. Within 5 working days from the indication by the capacity provider of the agreement referred to in Article 47b (3) (1) or (2) of the Act, the TSO shall verify the submitted information for compliance with the requirements referred to in Article 47b (3) – (7) of the Act and set out in the Rules. The compliance with the requirements referred to in the first sentence shall be confirmed by the TSO on the basis of the data contained in the register, in particular the data submitted in the course of certification for auction, as a result of which the agreements referred to in Article 47b (3) (1) and (2) of the Act were concluded.
- 14.5.12. Positive verification of the information indicating the agreements by the capacity provider, as referred to in Article 47b (3) (1) and (2) of the Act, shall be confirmed by the TSO making a relevant entry in the register.
- 14.5.13. The terminated agreement shall be terminated on the date specified in Article 47b (3) of the Act, which shall be confirmed by an entry in the register as referred to in Section 14.5.10, whereas the date of termination of this agreement shall be the later of the dates on which the capacity provider indicated the capacity agreements referred to in Article 47b (3) (1) and (2) of the Act.

- 14.5.14. If the information indicating the agreements referred to in Article 47b (3) (1) or (2) of the Act does not meet the requirements specified in Section 14.5.7 or 14.5.9, the TSO shall request the capacity provider, through the register, to remedy the defects or formal deficiencies, indicating such defects or formal deficiencies in the request and setting a time limit for their remedy, not shorter than 3 working days. Information on the request to rectify formal defects or deficiencies shall also be conveyed by a notice sent automatically to the register user's email address.
- 14.5.15. If the capacity provider fails to remedy the defects or formal deficiencies referred to in Section 14.5.14 within the time limit set by the TSO, the notice of termination of the agreement shall not have legal effects and the terminated agreement shall not be terminated, of which the TSO shall immediately inform the capacity provider, making a relevant entry in the register.
- 14.5.16. If the capacity provider:
- 1) fails to indicate any of the agreements referred to in Article 47b (3) (1) and (2) of the Act within the time limit referred to in Section 14.5.7, or;
  - 2) fails to remedy the defects or formal deficiencies referred to in Section 14.5.14 within the time limit set by the TSO and the time limit has expired, referred to in Section 14.5.7, or
  - 3) indicates the agreement referred to in Article 47b (3) (1) or (2) of the Act, which does not meet the conditions referred to in Article 47b (3) – (7) of the Act and the time limit has expired, referred to in Section 14.5.7,
- the TSO shall consider that the submission of the notice of termination of the agreement does not have legal effects, of which it shall immediately inform the capacity provider, entering relevant information.
- 14.5.17. In relation to the TSO's information stating that the notice of termination of the agreement does not have legal effects, the capacity provider shall have the rights specified in Section 19 – “Complaint procedure”.

## 15. Demand side response performance test

15.1. The demand side response performance test shall be carried out for:

- 1) each physical demand side response capacity market unit that independently forms an unproven demand side response capacity market unit,
- 2) a group of physical demand side response units that jointly form an unproven demand side response capacity market unit,
- 3) one physical demand side response capacity market unit that will independently form a demand side response capacity market unit after a certificate is obtained in certification for the main auction or certification for additional auctions,
- 4) a group of physical demand side response units that will jointly form a demand side response capacity market unit after a certificate is obtained in certification for the main auction or certification for additional auctions.
- 5) each physical cross-border demand side response unit that independently forms an unproven demand side response capacity market unit,
- 6) a group of physical cross-border demand side response units that jointly form an unproven demand side response capacity market unit.

15.2. In the case of an unproven demand side response capacity market unit which comprises at least one planned demand side response unit, prior to the demand side response performance test, it shall be necessary to substitute all planned demand side response units forming part of a given capacity market unit with physical demand side response units. Substitution of planned demand side response units with physical demand side response units shall be performed in the manner and on the terms specified Section 10.

15.3. The demand side response performance test shall be carried following an application, hereinafter referred to as the “demand side response performance test application” submitted by:

- 1) the capacity provider – in the case referred to in Section 15.1 (1), (2), (5) or (6),
- 2) an entity authorised to dispose of physical demand side response units for the purposes of capacity market processes in accordance with the requirements specified in Section 4.1.9 – in the case referred to in Section 15.1 (3) or (4).

15.4. The demand side response performance test application shall be submitted to the TSO through the register.

15.5. The demand side response performance test application in the cases referred to in Section 15.1 (5) or (6) shall be prepared in Polish or in English if the register has such functionality.

15.6. The demand side response performance test application may concern only physical demand side response units with a valid register entry.

15.7. The demand side response performance test application shall contain:

- 1) identification data of the entity submitting the application referred to in Section 15.3 (1) or (2),
- 2) contact details: email address and telephone number to be used for the purpose of giving a notice to carry out the test,
- 3) the capacity market unit code – in the case referred to in Section 15.1 (1), (2), (5) or (6),
- 4) a list of physical demand side response unit codes assigned by the register, to which the application relates,
- 5) designation of the method of calculating the volume of capacity delivered as a result of temporary reduction in capacity demand from the grid – if the provisions issued under Article 68 of the Act specify more than one method and the provisions allow such method to be chosen independently,
- 6) notice of readiness for the demand side response performance test,

- 7) authorisation of the entity submitting an application, meeting the requirements referred to in Section 4.1.9 to dispose of physical demand side response units for the purposes of capacity market processes – in the case referred to in Section 15.1 (3) or (4),
  - 8) the confirmation referred to in Section 7.4.2.12 (5) or (6) respectively – in the case referred to in Section 15.1 (3) or (4),
  - 9) representation of consent to the acquisition by the TSO of metering/billing data concerning metering points of the physical units covered by the application:
    - a) from the date of application submission, and if the selected method referred to in Section 15.7 (5) requires historical data, from the start of the period required for the application of this method,
    - b) until the end of the validity period of the certificate issued for a given capacity market unit, and in the case referred to in Section 15.1 (3) or (4), until the end of a 6-month period running from the date of application submission.
- 15.8. The register user authorised to submit the applications referred to in Section 15.3 or Section 15.23 shall be a person meeting the requirements specified in Section 4.1.6.
- 15.9. Within 5 working days from the receipt of the demand side response performance test application, the TSO shall verify its completeness and compliance with the requirements set out in the Rules.
- 15.10. The result of verification of the demand side response performance test application shall be confirmed by the TSO making a relevant entry in the register.
- 15.11. Not later than 10 working days after the demand side response performance test application is granted, the TSO shall issue a notice to carry out the demand side response performance test, subject to Section 15.12.
- 15.12. If the method of calculating the volume of capacity delivered as a result of temporary reduction of capacity demand from the grid, specified in provisions issued under Article 68 of the Act or selected in accordance with Section 15.7 (5) requires plans of electricity supply to physical demand side response units covered by the application to be submitted to the TSO, the time limit referred to in 15.11 shall be extended by a time period necessary to obtain the required number of supply plan notifications and to confirm compliance with requirements concerning the correctness of planning. In order to reduce the time period in question, the TSO shall allow the delivery of electricity supply plans to physical demand side response units covered by this application, in accordance with the provisions issued on the basis of Article 68 of the Act, prior to the submission of this application.
- 15.13. The plans referred to in Section 15.12 shall be submitted through the register or in other form agreed with the TSO if the register does not provide relevant functionalities. If the above-mentioned plans are submitted prior to the submission of the demand side response performance test application concerning the units referred to in Section 15.1 (3) or (4), they must contain a declaration on the consent to the acquisition by the TSO of metering/billing data concerning physical units which will be covered by the demand side response performance test application, from the date included in the first submitted plan until the end of the 6-month period running from the date of submission of the last plan.
- 15.14. The notice to carry out the demand side response performance test shall be communicated to the telephone number and email address stated in accordance with Section 15.7 (2), together with information on the start date and time of the test, no later than 8 hours prior to its commencement.
- 15.15. The demand side response performance test shall be carried out for a continuous period of 1 hour.
- 15.16. The demand side response performance test may be carried out only at the dates and times specified in relevant provisions issued under Article 68 of the Act.
- 15.17. The TSO shall not charge any fee for carrying out the demand side response performance test. The TSO shall not incur the costs of performing the demand side response performance test charged to the entity submitting the demand side response performance test application and to the physical demand side response units participating in the test.

- 15.18. Calculation of the capacity volume delivered during the demand side response performance test shall be based on the rules set forth in provisions issued under Article 68 of the Act and the rules set forth in Section 16.5.
- 15.19. In the case the demand side response performance test involves physical demand side response units that have metering points in the distribution grid, the relevant DSOs shall provide metering data to the TSO for the period required for the calculation of the capacity volume delivered to the system during the test, in the manner set forth in Section 18.5.
- 15.20. The basis for determining the volume of capacity delivered during the demand side response performance test shall be the most up-to-date metering/billing data obtained directly by the TSO or submitted in the manner specified in Section 18.5.
- 15.21. Where, as a result of the demand side response performance test, capacity delivered to the system during the test hour was:
- 1) not less than 80% of the product of the sum of the maximum capacity of the tested physical demand side response units and the de-rating factor stated in the certificate, if issued, or applicable to the next delivery year, the test result shall be considered positive and the confirmation of completion of the test shall specify the maximum demand side response capacity equal to the sum of the maximum capacities of tested physical demand side response units,
  - 2) less than 80% of the product of the sum of the maximum capacity of the tested physical demand side response units and the de-rating factor stated in the certificate, if issued, or applicable to the next delivery year, the test result shall be considered negative.
- 15.22. The TSO shall communicate the result of the demand side response performance test through the register not later than 10 working days after the test date, stating the volume of capacity delivered to the system during the test.
- 15.23. Where, as a result of the demand side response performance test, capacity delivered the system during the test hour was not less than 50% and not more than 80% of the product of the sum of the maximum capacities of the tested physical demand side response units and the de-rating factor stated in the certificate, if issued, or applicable to the next delivery year, the applicant shall have the right to apply to the TSO, within 3 working days of receipt of information about the result of the demand side response performance test, for confirmation of completion of the demand side response performance test with a reduced capacity.
- 15.24. The application referred to in Section 15.23 shall be submitted to the TSO through the register.
- 15.25. In the case of submission of the application referred to in Section 15.23, the maximum demand side response capacity included in the confirmation of the demand side response performance test with reduced capacity equals the volume of capacity delivered during the test hour.
- 15.26. Confirmation of completion of the demand side response performance test shall be issued for a specific physical demand side response unit or a specific group of physical demand side response units. The confirmation shall be binding for the demand side response capacity market unit only if it consists of the same physical demand side response units.
- 15.27. Where the demand side response performance test application relates to one physical unit that provides or has provided the demand side response service, the TSO shall be authorised to issue confirmation of completion of the demand side response performance test if the following conditions are met jointly:
- 1) the physical unit providing the service to the TSO is described by the same metering points, which jointly form a complete power supply system;
  - 2) the unit has received a positive result of the test or provided the service no earlier than during the last 12 months;
  - 3) the capacity delivered as a result of the test or the service was not less than the capacity stated in the demand side response test application;
  - 4) the rules based on which the notice was issued for the test or service were substantially in accordance with the rules for the announcement and performance of the capacity obligation in a system stress event,

- 5) the volume of demand reduction achieved was calculated in a manner consistent with the rules set forth in provisions issued under Article 68 of the Act and the rules set forth in Section 16.5.
- 15.28. Confirmation of completion of the demand side response performance test shall be issued in electronic form with the use of the register or it shall be sent to the email address stated in the demand side response performance test application if the register does not provide relevant functionalities.
- 15.29. Confirmation of completion of the demand side response performance test shall be valid for 5 years after its issue, subject to Section 15.30.
- 15.30. In the case of a demand side response capacity market unit covered by the capacity obligation, the 5-year validity period of the demand side response performance test shall in each case begin to run from:
- 1) delivering the capacity obligation volume at least equal to the adjusted capacity obligation of the capacity market unit concerned during the system stress event,
  - 2) obtaining a positive result for the test system stress event announced for the capacity market unit concerned,
  - 3) the date on which the TSO informed about a positive result of the demonstration referred to in Article 67 of the Act, with respect to a given capacity market unit.
- 15.31. In the case of a negative result of the demand side response performance test referred to in Section 15.21 (2), the capacity provider shall have the right specified in Section 19 – “Complaint procedure”.

## 16. Rules for performing the capacity obligation

### 16.1. Adjusted capacity obligation

16.1.1. The adjusted capacity obligation in a given system stress event shall result from the ratio of grid demand increased by the required capacity surplus to the sum of capacity obligations of all capacity market units, taking into account Section 16.6. The adjusted capacity obligation of the  $i$ -th capacity market unit shall be calculated in accordance with the following formula:

$$SOM_i = \min \left\{ 1, \frac{P_{OZ} + P_{RM} - W_{NJRM}}{\sum_{n=1}^{n=m} OM_n - UR_{JRM}} \right\} \cdot OM_i$$

where:

- $SOM_i$  – means the adjusted capacity obligation of  $i$ -th unit in a given system stress event, expressed in MW;
- $OM_i$  – means the capacity obligation of the  $i$ -th capacity market in a given system stress event, expressed in MW;
- $P_{OZ}$  – means the average forecasted grid demand in a given system stress event, expressed in MW;
- $P_{RM}$  – means the capacity surplus required in the a given system stress event, determined in accordance with the provisions of the IRiESP referred to in Article 9g (4) (9) of Energy Law Act (Journal of Laws of 2021, item 716 as amended), expressed in MW;
- $W_{NJRM}$  – means the average forecasted capacity delivered to the grid in a given system stress event by generating assets not covered by capacity obligations, expressed in MW;
- $OM_n$  – means the capacity obligation of the  $n$ -th capacity market unit in a given system stress event, where  $m$  is the number of all capacity market units covered by capacity obligations, expressed in MW;
- $UR_{JRM}$  – means the sum of unavailable capacities of capacity market units in a given system stress event, resulting from the events referred to in Section 16.6, expressed in MW.

16.1.2. The adjusted capacity obligation of a given capacity market unit in a given system stress event shall be calculated on the basis of the values of the expressions  $(P_{OZ} + P_{RM} - W_{NJRM})$  and  $(\sum_{n=1}^m CO_n - UR_{JRM})$  forecasted at the time the system stress event is announced.

16.1.3. Along with the announcement of the system stress event, the TSO shall publish the values referred to in Section 16.1.2 on its website.

### 16.2. Performance of the capacity obligation

16.2.1. Performance of capacity obligation shall consist in:

- 1) maintaining the capacity market unit's readiness to deliver net available capacity  
and
- 2) delivering capacity to the grid during system stress events in an amount equal to the adjusted capacity obligation – in the case of a capacity market unit consisting of physical units situated within the PPS and a capacity market unit consisting of interconnector physical units, or
- 3) delivering capacity to the grid of a European Union Member State which is directly interconnected with the system or maintains readiness to provide net available capacity during system stress events, in an amount equal to the adjusted capacity obligation – in the case of a capacity market unit consisting of physical cross-border units located within that system.

16.2.2. Performance of the capacity obligation referred to in Section 16.2.1 (2) shall involve:

- 1) providing net available capacity of a given capacity market unit and fulfilling the TSO's instructions in accordance with the procedures referred to in Article 9g (6) of the Energy Law Act – in the case of capacity market units consisting solely of physical units actively participating in the balancing of the PPS as part of the central balancing mechanism,
  - 2) generating and delivering electricity to the grid – in the case of generating capacity market units other than those referred to in subsection (1),
  - 3) temporary reduction in consumption of electricity from the grid– in the case of demand side response capacity market units other than those specified in subsection (1),
- 16.2.3. Performance of the capacity obligation referred to in Section 16.2.1 (2) by capacity market units consisting of interconnector physical units shall consist in the delivery of electrical capacity to the PPS in a given system stress event through the interconnector physical units forming part of a given capacity market unit.
- 16.2.4. The basis for the settlement of the capacity obligation by a given capacity market unit in a given system stress event shall be the performance of the adjusted capacity obligation in a given system stress event ( $WSOM_h$ , where h is the hour in which the system stress event occurred), which is calculated in the case of:
- 1) the generating capacity market units referred to in Section 16.2.2 (1) – as the sum of the net available capacities calculated in accordance with Section 16.2.7 or 16.2.8, for a given system stress event, for all physical generating units forming part of a given capacity market unit,
  - 2) the demand side response capacity market units referred to in Section 16.2.2 (1) – as the sum of net available capacities calculated in accordance with Section 16.2.27, for a given system stress event, for all physical demand side response units forming part of a given capacity market unit,
  - 3) generating units referred to in Section 16.2.2 (2) – as the sum of hourly values of electricity supply or consumption to or from the grid, calculated in accordance with Section 16.4.7, increased by losses resulting from the orders of the TSO or DSO referred to in Section 16.6.1, for a given system stress event, for all physical generating units forming part of a given capacity market unit.
  - 4) the demand side response capacity market units referred to in Section 16.2.2 (3) – as a difference between the base profile and the sum of hourly values of electricity supply or consumption to or from the grid, calculated in accordance with Section 16.4.10, increased by losses resulting from the orders of the TSO or DSO referred to in Section 16.6.1, for a given system stress event, for all physical demand side response units forming part of a given capacity market unit.
  - 5) capacity market units consisting of interconnector physical units - in accordance with Section 16.2.28,
  - 6) capacity market units consisting of physical cross-border units – the adjusted capacity obligation of a given capacity market unit, for that hour, reduced by any non-performance of the capacity obligation, calculated in accordance with Section 16.2.30.
- 16.2.5. If the performance of the adjusted capacity obligation for a given capacity market unit in a given system stress event, calculated in accordance with Section 16.2.4, without taking into account the transactions referred to in Section 12.1.1 (2), is less than zero, it shall be assumed that the performance of the adjusted capacity obligation for this capacity market unit in this system stress event equals zero.
- 16.2.6. Net available capacity of the physical generating unit referred to in Section 16.2.2 (1), calculated on the basis of:
- 1) maximum capacity of the physical unit used within the framework of the central balancing mechanism,
  - 2) notified unavailable capacity,
  - 3) degree of fulfilment of operational instructions issued by the TSO and DSOs, taking into account the congestions referred to in 16.6.1,

- 4) the conversion average hourly value of capacity consumption or delivery by auxiliary and general power supply systems assigned to the physical unit referred to in Section 16.4.7 (2).

16.2.7. Net available capacity of the generating physical unit referred to in Section 16.2.2 (1) other than the energy storage, in a given hour is calculated as:

$$P_{DNWh} = W_{NBh} \cdot [P_{OSWh} - \max\{0, P_{ZADh} - P_{WYKh}\}] + PP_h + U_h$$

where:

- $P_{DNWh}$  – means the net available capacity of a physical generating unit in the hour  $h$ , expressed in MW;
- $W_{NBh}$  – means the gross/net conversion coefficient, in the hour  $h$ ;
- $P_{OSWh}$  – means the average maximum generation capacity of a physical unit in the hour  $h$  available to the TSO under the central balancing mechanism due to the operating conditions of that unit, without taking into account grid congestions, expressed in MW;
- $U_h$  – means the average value of losses referred to in Section 16.6.1 (3), in hour  $h$ , determined under Section 16.6.12, expressed in MW;
- $P_{ZADh}$  – means the average hourly capacity of the generating unit in hour  $h$ , set by the TSO or DSO, resulting from the Current Operating Points provided in the Current 24-hour Coordination Plan or equivalent plan, and the capacity set as a result of operation of the control systems, expressed in MW;
- $P_{WYKh}$  – means the average hourly capacity of the generating unit in hour  $h$ , understood as the as-built value equal to the total capacity measured at all points for which bids are submitted as part of the central balancing mechanism, expressed in MW;
- $PP_h$  – means the average hourly conversion volume of capacity delivery or consumption to or from the grid by the power supply systems for auxiliaries and own consumption systems assigned to a particular physical generating unit referred to in Section 16.4.7 (2), taking into account Section 16.4.11, in hour  $h$ , expressed in MW;

subject to Section 16.2.25 and 16.2.26.

16.2.8. Net available capacity of the physical generating unit being the energy storage facility referred to in Section 16.2.2 (1), in a given system stress event  $h$  shall be calculated as:

$$P_{DNSih} = P_{DNWh} + P_{KORih}$$

where:

- $P_{DNSih}$  – means the net available capacity of  $i$ -th physical generating unit in system stress event  $h$ , taking into account the change of availability of this unit resulting from the TSO orders, expressed in MW;
- $P_{DNWh}$  – means the net available capacity of  $i$ -th physical generating unit in system stress event  $h$ , calculated in accordance with Section 16.2.7, taking into account that when determining the value  $PP_h$ , it is assumed that the component  $E_{hnk}$  is equal to zero for the generator output circuits of the physical unit operating in charging mode at the TSO's order, expressed in MW;
- $P_{KORih}$  – means the adjustment of the availability of  $i$ -th physical generating unit in system stress event  $h$ , expressed in MW.

16.2.9. The capacity provider, not later than within 2 working days after the TSO publishes the metering/billing data concerning a given system stress event, in accordance with Section 16.9.5, shall notify, through the register, the value  $P_{KORih}$  referred to in Section 16.2.8,

separately for each system stress event and each physical generating unit being the energy storage referred to in Section 16.2.2 (1).

- 16.2.10. If the capacity provider raises objections to the metering/billing data in accordance with Section 16.9.6, on the basis of which the TSO determines the performance of the adjusted capacity obligation and after the TSO finds that they are incorrect in the course of the verification referred to in Section 16.9.7, the capacity provider may update, through the register, the value  $P_{KORih}$  referred to in Section 16.2.8, within 1 working day after the time limit referred to in Section 16.9.8, separately for each system stress event and each physical generating unit being an energy storage, referred to in Section 16.2.2 (1), taking into account Section 16.9.9.
- 16.2.11. The value  $P_{KORih}$  referred to in Section 16.2.8, shall not be less than zero.
- 16.2.12. If the value  $P_{KORih}$  referred to in Section 16.2.8 is reported as greater than the difference between the net maximum capacity of a given physical unit and the net available capacity  $P_{DNSih}$  calculated in accordance with Section 16.2.7, it is assumed that the net available capacity taking into account the change in the availability resulting from orders of the TSO  $P_{DNSih}$  referred to in Section 16.2.8 is equal to the net maximum capacity of a given physical unit.
- 16.2.13. The sum of all values  $P_{KORih}$  referred to in Section 16.2.8 reported for a given day on which at least one system stress event occurred, and for all physical generating units being an energy storage facility referred to in Section 16.2.2 (1), having a common energy storage facility, shall not exceed the total value of adjustments resulting from orders of the TSO in accordance with the following formula:

$$\sum_{i=1}^j \sum_{h=1}^n P_{KORih} \leq \max \left\{ \sum_{i=1}^j \sum_{t=T1}^{T2} \frac{\Delta EZS_{it}^G + \eta_i \cdot \Delta EZS_{it}^L}{H}; 0 \right\}$$

where:

- $P_{KORih}$  – means a reported adjustment of the availability of  $i$ -th physical generating unit in the system stress event  $h$ , expressed in MW;
- $j$  – means the number of all physical generating units with a common energy storage;
- $n$  – means the number of all system stress events reported for a given day;
- $\Delta EZS_{it}^G$  – means the difference between the adjusted energy (ES) and the verified energy (EZ), determined as for the purposes of settlements under the central balancing mechanism, in the scope of changes in the forced storage generation plan ( $ZP = 1$ ) at the order of the TSO in relation to  $i$ -th physical generating unit in hour  $t$ , expressed in MW;
- $T1$  – means the eight hour of day  $d$ -3;
- $T2$  – means the hour for which the last system stress event was reported in the analyzed day  $d$ ;
- $\eta_i$  – means the efficiency of the single charging and discharging cycle of  $i$ -th physical generating unit, indicated in the most current, approved application for entry in the register;
- $\Delta EZS_{it}^L$  – means the difference between ES and EZ as regards changes in the forced storage charging plan ( $ZP = 1$ ), determined as for the purposes of settlements under the central balancing mechanism, at the TSO's order in relation to  $i$ -th physical generating unit in hour  $h$ , expressed in MW;
- $H$  – means the conversion constant equal to 1 hour;

subject to Section 16.2.14.

- 16.2.14. In the case of reporting the value  $P_{KORih}$  referred to in Section 16.2.8 in respect of system stress events occurring in different days, for the purpose of verifying the compliance with the

condition referred to in Section 16.2.13, it is assumed that the values  $\Delta EZS_{it}^G$  and  $\Delta EZS_{it}^L$  regarding the same hours occurring simultaneously in the range  $\langle T1; T2 \rangle$  for more than one day on which the system stress event occurred – may be taken into account, in whole or in part, only in the settlement of the system stress events occurring in one day. For the value  $P_{KORih}$  in relation to system stress events occurring in remaining days, it is assumed that values  $\Delta EZS_{it}^G$  and  $\Delta EZS_{it}^L$  for these hours are equal to the difference between their values and values used for reporting the value  $P_{KORih}$ , assuming that the values  $\Delta EZS_{it}^G$  i  $\Delta EZS_{it}^L$  are used consecutively from the earliest ones.

- 16.2.15. If the value  $P_{KORih}$  referred to in Section 16.2.8 is not reported within the time limit referred to in Section 16.2.9, It is assumed that the value  $P_{KORih}$  is zero.
- 16.2.16. The successful verification of the value  $P_{KORih}$ , reported as referred to in section 16.2.9 or 16.2.10, shall be confirmed by the TSO making a relevant entry in the register.
- 16.2.17. If it is found that the notification of the value  $P_{KORih}$  referred to in Section 16.2.9 or 16.2.10 is incomplete, in particular if the notification does not comply with the requirements specified in the Rules, the TSO, using the register, shall request the capacity provider to remedy formal defects or deficiencies in the notification of the value  $P_{KORih}$ , while indicating such formal defects or deficiencies in the request and setting the time limit of 1 working day for their remedy. Information on the request to rectify formal defects or deficiencies shall also be conveyed by a notice sent automatically to the register user's email address.
- 16.2.18. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall negatively verify the notification of the value  $P_{KORih}$  in relation to the capacity market unit covered by the notification, which shall be immediately notified to the capacity provider by providing relevant information in the register and shall assume that the value  $P_{KORih}$  is equal to:
- 1) zero – in the case of the notification referred to in Section 16.2.9;
  - 2) the value previously adopted by the TSO in accordance with subsection (1) or with Section 16.2.16 – in the case of the notification referred to in Section 16.2.10.
- A notice of making an entry of such information shall also be sent automatically to the register user's email address.
- 16.2.19. The register user authorised to report the value  $P_{KORih}$  referred to in Section 16.2.8 shall be a person meeting the requirements specified in Section 4.1.6.
- 16.2.20. If the operational planning and operation in the NPS is based on the gross values  $P_{OSWh}$ ,  $P_{ZADh}$ ,  $P_{WYKh}$ , referred to in Section 16.2.7 are gross values and the coefficient  $W_{NBh}$  is determined for a given hour in accordance with the following formula:

$$W_{NBh} = \frac{\sum_{k=1}^{k=l} \max\{0, E_{ODhk}\}}{\sum_{i=1}^{i=j} E_{Bhi}}$$

where:

- $W_{NBh}$  – means the gross/net conversion coefficient, in the hour  $h$ ,
- $E_{ODkh}$  – the volume of electricity expressed in MWh, measured at  $k$ -th metering point in the generator output circuit of a given physical unit, in the hour  $h$ , where  $l$  is the number of generator output circuits of a given unit;
- $E_{Bih}$  – the volume of electricity expressed in MWh, measured at the terminals of the  $i$ -th generator, in the hour  $h$ , where  $j$  is the number of generators forming part of a given physical unit;

subject to Sections 16.2.25 and 16.2.26.

- 16.2.21. The volume of electricity measured at the metering point in the hour  $h$  shall be understood as the balance of electricity supplied to and consumed from the grid in that hour.
- 16.2.22. In the case of the physical generating unit referred to in Section 16.2.2 (1), if the TSO or DSO do not have direct access to the metering data concerning the volume of electricity

measured at the generator terminals ( $E_{Bhi}$ ), for the purpose of determining the factor  $W_{BNh}$ , the owner of the physical unit shall provide the TSO or the relevant DSO with the hourly volumes of electricity measured at the terminals of the generators  $E_{Bhi}$ , on the terms and conditions agreed with this operator.

16.2.23. In the case where  $\sum_{i=1}^{i=j} E_{Bhi} = 0$ , the coefficient  $W_{BNh}$  is determined in accordance with the following formula:

$$W_{BNh} = \frac{P_{osN}}{P_{osB}}$$

where:

- $W_{BNh}$  – means the gross/net conversion coefficient, in hour  $h$ ;
- $P_{osN}$  – means the net maximum capacity of the generating physical unit indicated in the certification for the capacity auction for a given delivery year, expressed in MW;
- $P_{osB}$  – means the gross available capacity of the physical generating unit indicated in the certification for the capacity auction for a given delivery year, expressed in MW;

subject to Sections 16.2.25 and 16.2.26.

16.2.24. If the operational planning and operation in the NPS is based on the net values, then the values  $P_{OSWh}$ ,  $P_{ZADh}$ ,  $P_{WYKh}$ , referred to in Section 16.2.7 are net values and the coefficient  $W_{BNh}$  is equal to 1. If the operational planning and operation of the NPS is based on gross values, efforts should be taken to ensure that the measurement for the purposes of calculating the value  $E_{Bhi}$  is performed with the accuracy equivalent to the measurements for the purposes of calculating the value  $E_{ODhk}$  referred to in Section 16.2.20.

16.2.25. In the case of the physical generating unit referred to in Section 16.2.2 (1):

- 1) comprising at least one generating unit which does not actively participate in the balancing of the NPS under the central balancing mechanism, and
- 2) for which the unit control and bidding as part of the central balancing mechanism also takes into account the flows of electricity in the place in the grid, equipment or system, which is not a metering point, and
- 3) for which places in the grid, equipment or systems referred to in (1) are indicated in the electricity transmission agreement and the remote transmission of metering data from these places to the TSO is ensured,

the performance of the capacity obligation by this unit is verified taking into account the terms and conditions referred to in Section 16.2.7.

16.2.26. In the case referred to in Section 16.2.25:

- 1) the value  $P_{DNWh}$  referred to in Section 16.2.7, shall be reduced by the volume of electricity measured for a given hour in the location referred to in Section 16.2.25 (1),
- 2) when calculating the value  $W_{BNh}$  referred to in Section 16.2.20, the volume of electricity measured for a given hour at the location referred to in Section 16.2.25 (1) shall be taken into account as the volume of electricity measured at the metering point located in the generator output circuit of this unit,
- 3) when calculating the value  $W_{BNh}$  referred to in Section 16.2.23 as the value  $P_{osN}$  and  $P_{osB}$  respectively net and gross available capacity of the generating unit actively participating in the balancing of the NPS within the central balancing mechanism, excluding other generating units being a part of a given physical unit, are assumed as the values and accordingly

16.2.27. Net available capacity of the physical demand side response unit referred to in Section 16.2.2 (1) in a given hour shall be calculated as follows:

$$P_{DNRh} = P_{OSRh} - \max\{0, P_{ZADRh} - P_{WYKh}\} + U_h$$

where:

- $P_{DNRh}$  – means net available capacity of a physical demand side response unit in hour  $h$ , expressed in MW;
- $P_{OSRh}$  – means the capacity of the physical unit determined as the ex-post value equal to the average available demand side response capacity taken into account within the central balancing mechanism, in the hour  $h$ , expressed in MW;
- $P_{ZADRh}$  – means the average hourly capacity of a physical demand side response unit in the hour  $h$ , set by the TSO or DSO, expressed in MW;
- $P_{WYKh}$  – means the average performed hourly capacity of a physical demand side response unit in the hour  $h$ , expressed in MW;
- $U_h$  – means the average value of losses referred to in Section 16.6.1 (3), in the hour  $h$ , determined under Section 16.6.12, expressed in MW.

16.2.28. In the case of a capacity market unit consisting of interconnector physical units belonging to one of the zones referred to in Article 6 (6) of the Act:

- 1) if the TSO and all capacity providers operating capacity market units consisting of interconnector physical units have provided transmission capacities corresponding at least to the adjusted capacity obligations of individual capacity market units, the performance of the adjusted capacity obligation in a given hour by that capacity market unit shall be calculated in accordance with the following formula:

$$WSOM_i = SOM_i - \max\left\{0, \left(\sum_{n=1}^{n=m} SOM_n - \sum_{n=1}^{n=m} P_n\right) \cdot \frac{OM_i}{\sum_{n=1}^{n=m} OM_n}\right\}$$

where:

- $WSOM_i$  – means the performance of the adjusted capacity obligation of the  $i$ -th capacity market unit consisting of interconnector physical units, expressed in MW;
- $SOM_i$  – means the adjusted capacity obligation of the  $i$ -th capacity market unit consisting of interconnector physical units, expressed in MW;
- $SOM_n$  – means the adjusted capacity obligation of the  $n$ -th capacity market unit, where  $m$  is the number of all capacity market units consisting of interconnector physical units in the zone concerned, expressed in MW;
- $P_n$  – means the capacity flow to the NPS through the  $n$ -th capacity market unit, where  $m$  is the number of all capacity market units consisting of interconnector physical units in the zone concerned, expressed in MW;
- $OM_i$  – means the capacity obligation of the  $i$ -th capacity market unit consisting of interconnector physical units, expressed in MW;
- $OM_n$  – means the capacity obligation of the  $n$ -th capacity market unit, where  $m$  is the number of all capacity market units consisting of interconnector physical units in the zone concerned, expressed in MW.

- 2) if for one or more interconnectors the TSO or capacity providers operating capacity market units consisting of interconnector physical units have not provided transmission capacity, for one or more interconnectors, corresponding at least to the adjusted capacity obligations of individual capacity market units, the performance of the adjusted capacity obligation in a given hour by that capacity market unit shall be calculated in accordance with the following formula:

$$WSOM_i = SOM_i - \max\left\{0, \left(\sum_{n=1}^{n=m} (SOM_n - P_n)\right) \cdot \frac{\max\{0, SOM_i - \min\{ZPOSP_i, ZPTSO_i\}\}}{\sum_{n=1}^{n=m} (SOM_n - \max\{0, \min\{ZPOSP_n, ZPTSO_n\}\})}\right\}$$

where:

- $WSOM_i$  – means the performance of the adjusted capacity obligation of the  $i$ -th capacity market unit consisting of interconnector physical units, expressed in MW;
- $SOM_i$  – means the adjusted capacity obligation of the  $i$ -th capacity market unit consisting of interconnector physical units, expressed in MW;
- $SOM_n$  – means the adjusted capacity obligation of the  $n$ -th capacity market unit, where  $m$  is the number of all capacity market units consisting of interconnector physical units in the zone concerned, expressed in MW;
- $P_n$  – means the capacity flow to the NPS through the  $n$ -th capacity market unit, where  $m$  is the number of all capacity market units consisting of interconnector physical units in the zone concerned, expressed in MW;
- $ZPOSP_i$  – means the transmission capacity provided by the TSO for import to the NPS for connection with the system relevant for a given capacity market unit, expressed in MW;
- $ZPOSP_n$  – means the transmission capacity made available by the TSO for import to the NPS for  $n$ -th connection with the system being part of the zone where the capacity market unit is located, expressed in MW;
- $ZPTSO_i$  – means transmission capacity made available by the capacity provider for import to the NPS for connection with the system relevant for a given capacity market unit, expressed in MW;
- $ZPTSO_n$  – means the transmission capacity made available by the capacity provider for import to the NPS for  $n$ -th connection with the system being part of the zone where the capacity market unit is located, expressed in MW.

- 16.2.29. In the case of capacity market units consisting of physical cross-border demand side response units, the reduction in electricity consumption from the grid for the purposes of verification of capacity obligation performance in a system stress event shall be calculated in accordance with provisions issued under Article 68 of the Act and the provisions of Section 16.5.
- 16.2.30. In the case of capacity market units consisting of physical cross-border units, if the adjusted capacity obligation of a given capacity market unit has not been performed in a given system stress event, the performance of the adjusted capacity obligation (WSOM) shall be calculated as the sum of:
- 1) capacity delivered to the grid by a given capacity market unit as part of the system in which the unit is situated, as a result of electricity generation or reduction in consumption of energy from the grid, and
  - 2) unused valid electricity generation bids or electricity consumption reduction bids submitted by the unit on the energy exchange or in the balancing market, subject to Section 16.2.31.
- 16.2.31. In the case of a capacity market unit consisting of physical cross-border demand side response units, the bids referred to in Section 16.2.30 (2) shall be considered valid if submitted with a price not higher than twice the average price prevailing on the energy exchange in a given delivery year.
- 16.2.32. The TSO shall determine the performance of the adjusted capacity obligation referred to in Section 16.2.4 on the basis of the metering/billing data made available to the capacity providers in accordance with Section 16.9.5, subject to Section 16.2.35.
- 16.2.33. The TSO shall make available through the register the information on the value of the performance of the adjusted capacity obligation referred to in Section 16.2.32, information on the value of the base profile referred to in Section 16.2.4 (4) and the values referred to in Section 16.2.7, 16.2.8, 16.2.27, 16.6.12, concerning individual capacity market units in the system stress event, within 5 working days from the time limit referred to in Section 16.9.5.

- 16.2.34. The capacity provider shall have the right to raise reservations concerning the correctness of the values made available through the register, referred to in Section 16.2.33. Such reservations shall be raised within the time limits and on the terms and conditions compliant with Section 16.9.6.
- 16.2.35. If the capacity provider raises reservations concerning the correctness of metering/billing data in accordance with Section 16.9.6, on the basis of which the TSO verified the performance of the adjusted capacity obligation or reservations concerning the correctness of the values made available through the register referred to in Section 16.2.34, and after the TSO finds that these data or values are incorrect during the verification referred to in Section 16.9.7, the TSO shall re-verify the performance of the adjusted capacity obligation referred to in Section 16.2.4, on the basis of the adjusted data made available to capacity providers in accordance with Section 16.9.8.
- 16.2.36. The TSO shall make available through the register the information on the verified volume of the performance of the adjusted capacity obligation referred to in Section 16.2.35, information on the value of the base profile referred to in Section 16.2.4 (4) and the values referred to in Section 16.2.7, 16.2.8, 16.2.27, 16.6.12, concerning individual capacity market units in the system stress event:
- 1) in the case of an update of the value  $P_{KORih}$  in accordance with Section 16.2.10 – within 4 working days from the time limit referred to in Section 16.9.8;
  - 2) in other cases – within the time limit referred to in Section 16.9.8.
- 16.2.37. Non-performance of the capacity obligation shall be determined separately for each capacity market unit in accordance with the following formula:

$$WOM_{K_z} = \max\{0, (SOM_z - WSOM_z)\}$$

where:

- $WOM_{K_z}$  – means the volume of non-performance of the capacity obligation of a given capacity market unit in system stress event  $z$ , expressed in MW;
- $SOM_z$  – means the value of the adjusted capacity obligation of a given capacity market unit referred to in Section 16.1.1, in the system stress event  $z$ , expressed in MW;
- $WSOM_z$  – means the performance of the adjusted capacity obligation of a given capacity market unit, determined in accordance with Section 16.2.32, in the system stress event  $z$ , expressed in MW.

- 16.2.38. Excess of the capacity obligation performance shall be determined separately for each capacity market unit in accordance with the following formula:

$$WOM_{P_z} = \max\{0, (WSOM_z - SOM_z)\}$$

where:

- $WOM_{P_z}$  – means the volume of the excess of the capacity obligation performance of a given capacity market unit in system stress event  $z$ , expressed in MW;
- $WSOM_z$  – means the performance of the adjusted capacity obligation of a given capacity market unit, determined in accordance with Section 16.2.32, in the system stress event  $z$ , expressed in MW;
- $SOM_z$  – means the value of the adjusted capacity obligation of a given capacity market unit referred to in Section 16.1.1, in the system stress event  $z$ , expressed in MW.

### 16.3. System stress event

#### 16.3.1. Identification of system stress events

- 16.3.1.1. No later than the first day of the quarter preceding the first delivery year, the TSO shall publish on its website information on:
- 1) the forecasted grid demand,
  - 2) the forecasted net available capacity of generating assets,
  - 3) the forecasted volume of unavailability resulting from the events referred to in Section 16.6,
  - 4) forecasted electricity production from generating assets which are not covered by capacity obligations,
  - 5) the sum of capacity obligations of all capacity market units.
- 16.3.1.2. If the TSO considers that the available reserve capacity volume will be smaller than the required volume, the TSO shall identify the occurrence of one or more system stress events and announce them in the manner set forth in Section 16.3.2.
- 16.3.1.3. The information referred to in Section 16.3.1.1 shall be published on an annual, monthly, weekly and daily basis.

#### **16.3.2. Announcement of system stress events**

- 16.3.2.1. Having identified the occurrence of a system stress event, the TSO shall announce the system stress event through:
- 1) publication of the information on its website,
  - 2) entering the information into the register,
  - 3) direct notification of capacity providers by email and short text messages (SMS).
- 16.3.2.2. As an additional communication channel for the announcement of system stress events, the TSO may also use other systems, e.g. systems used in communication with entities participating in the balancing market.
- 16.3.2.3. In the case of notification in the manner described in Section 16.3.2.1 (3), the time of notification shall be the time of dispatch of relevant messages instead of the time of delivery.
- 16.3.2.4. A system stress event may be announced:
- 1) separately for one system stress event, or
  - 2) jointly for several system stress events if more than one system stress event are found to occur.
- 16.3.2.5. In the case a system stress event is announced later than 8 hours before the beginning of the period, the announcement shall be considered null and void, provided that where more than one system stress event is announced, such announcement shall be considered null and void only for those system stress events for which the 8-hour notice requirement has not been met.

#### **16.4. Basis for the calculation of capacity obligation performance**

- 16.4.1. The following shall provide a basis for the calculation of capacity obligation performance:
- 1) metering/billing data acquired directly by the TSO from its own systems,
  - 2) information on availability and instructions issued to physical units forming part of capacity market units acquired directly by the TSO from its own systems,
  - 3) electricity supply plans declared for individual demand side response capacity market units, acquired directly by the TSO from its own systems,
  - 4) metering/billing data acquired by the TSO from the DSO through relevant DSOs,

- 5) metering/billing data and data on submitted bids, acquired by the TSO from relevant transmission system operators connected directly to the NPS,
  - 6) information on the availability of individual physical cross-border units forming part of capacity market units, acquired from relevant transmission system operators connected directly to the NPS,
  - 7) data concerning grid congestions referred to in Section 16.6.1 (1), acquired directly by the TSO from its own systems,
  - 8) data concerning grid congestions referred to in Section 16.6.1 (2), acquired by the TSO from the relevant DSOs,
  - 9) data on the events referred to in Section 16.6.1 (3), acquired from capacity providers.
- 16.4.2. In the case of physical demand side response units, the performance of the capacity obligation shall be calculated in accordance with provisions issued under Article 68 of the Act and the provisions of Section 16.5.
- 16.4.3. Metering/billing data and other data referred to in Section 16.4.1 (5) shall be provided to the TSO through relevant transmission system operators connected directly to the PPS in electronic form through the register or in other form to be determined between the parties in the agreement referred to in Article 6 (4) of the Act.
- 16.4.4. For the purposes of calculating the performance of the capacity obligation with the use of the metering/billing data referred to in Section 16.4.1 (1), (4) and (5), one profile of electricity delivery or consumption of energy from the grid shall be determined.
- 16.4.5. The profile of electricity delivery or its consumption from the grid shall be determined with an hourly resolution as a series of hourly values of electricity delivery or its consumption from the grid representing an algebraic sum of the hourly values of electricity delivery or its consumption from the grid for all physical units forming part of a given capacity market unit.
- 16.4.6. For the purposes of calculation of the algebraic sum of electricity delivery or its consumption from the grid, electricity delivered by a physical unit to the grid at the metering point shall have positive values, and electricity consumed from the grid at the same point shall have negative values.
- 16.4.7. The hourly value of electricity delivery or its consumption from the grid, referred to in Section 16.4.5, for one physical generating unit, shall be calculated as an algebraic sum of:
- 1) the average hourly capacity volume, calculated as the higher value of the following: zero and quotient of the sum of the electricity volume delivered to the grid or consumed from the grid in a given hour, measured at all metering points situated in the generator output circuits of a given physical unit and a conversion constant equal to one hour.
  - 2) the conversion average hourly volume of capacity consumption or delivery by auxiliary and general power supply systems assigned to a given physical unit.
- 16.4.8. The average hourly conversion for the volume of capacity consumption or delivery referred to in Section 16.4.7 (2), for a given hour, shall be determined in accordance with the following formula:

$$PP_h = \frac{\max\left\{0; \sum_{k=1}^{k=l_p} E_{hk}\right\}}{\sum_{n=1}^{n=m} \max\left\{0; \sum_{k=1}^{k=l_n} E_{hnk}\right\}} \cdot \frac{\sum_{i=1}^{i=j} E_{hi} + \sum_{n=1}^{n=m} \min\left\{0; \sum_{k=1}^{k=l_n} E_{hnk}\right\}}{H}$$

where:

- $PP_h$  – means the conversion average hourly volume of capacity consumption or delivery by auxiliary and general power supply systems assigned to a given physical unit in hour  $h$ , expressed in MW;
- $E_{hk}$  – means the volume of electricity in the hour  $h$ , expressed in MWh, measured at the  $k$ -th metering point in the generator output circuit of a given physical unit, where  $l_p$  is the number of metering points of the generator output circuits in a given unit;
- $E_{hnk}$  – means the volume of electricity in hour  $h$ , expressed in MWh, measured at the  $k$ -th metering point located in the generator output circuit of the  $n$ -th physical unit,

where  $l_n$  is the number of metering points in generator output circuits of the unit and  $m$  is the number of physical units that have auxiliary or general power supply systems, either common or electrically connected with a given physical unit;

$E_{hi}$  – means the volume of electricity consumed from the grid in hour  $h$ , expressed in MWh, measured at the  $i$ -th metering point relating to:

- a) auxiliary or general services of the physical unit and all physical units with which the unit has auxiliary or general power supply systems, either common or electrically connected with a given physical unit,
- b) supply the equipment consuming electricity for its own use, i.e. for purposes other than those related to generation, transmission or distribution of electricity,
- c) direct supply of connected consumers,

where  $j$  is the number of all such metering points;

$H$  – means a conversion constant equal to 1 hour.

16.4.9. If the total volume of electricity  $\sum_{k=1}^{k=l_n} E_{hmk}$ , referred to in Section 16.4.8, measured in the generator output circuits of each  $n$ -th physical unit, is not higher than zero, the conversion average hourly value of the volume of capacity consumption or delivery referred to in Section 16.4.7 (2), for a given hour, shall be determined in accordance with the following formula:

$$PP_h = \frac{P_{os}}{\sum_{n=1}^{n=m} P_{osn}} \cdot \frac{\sum_{i=1}^{i=j} E_{hi} + \sum_{m=1}^{n=m} \min\{0; \sum_{k=1}^{k=l_n} E_{hmk}\}}{H}$$

where:

$PP_h$  – means the conversion average hourly volume of capacity consumption or delivery by auxiliary and general power supply systems assigned to a given physical unit in hour  $h$ , expressed in MW;

$P_{os}$  – means the net maximum capacity of the generating physical unit indicated in the certification for the capacity auction for a given delivery year, expressed in MW;

$P_{osn}$  – means (i) net maximum capacity of  $n$ -th physical generating unit indicated in the certification for the capacity auction for a given delivery year or (ii) net maximum capacity of  $n$ -th physical unit indicated in the application for entry in the register approved in the year in which the last certification for auction for a given delivery year took place – if the  $n$ -th physical unit is entered in the capacity market register and is not part of any capacity market unit for a given delivery year, where  $m$  is a number of physical units having common or electrically connected power supply systems for auxiliaries or own consumption systems to a given physical unit, expressed in MW;

$E_{hi}$  – means the volume of electricity, expressed in MWh, consumed from the grid in hour  $h$ , measured at the  $i$ -th metering point relating to:

- a) auxiliary or general services of the physical unit and all physical units with which the unit has auxiliary or general power supply systems, either common or electrically connected with a given physical unit,
- b) supply the equipment consuming electricity for its own use, i.e. for purposes other than those related to generation, transmission or distribution of electricity
- c) direct supply of connected consumers,

where  $j$  is number of all these metering points

$E_{hmk}$  – means the volume of electricity in the hour  $h$ , expressed in MWh, measured at the  $k$ -th metering point located in the generator output circuit of the  $n$ -th physical unit, where  $l_n$  is the number of metering points in generator output circuits of the unit and  $m$  is the number of physical units that have auxiliary or general power supply systems, either common or electrically connected with a given physical unit,

$H$  – means the conversion constant equal to 1 hour,

- 16.4.10. The hourly value of net electricity delivery or consumption of electricity from the system, referred to in Section 16.4.5, in relation to one physical demand side response unit shall be calculated as the quotient of the sum of the volume of electricity delivered to the system or consumed from the grid in a given hour, measured at all metering points relating to a given physical unit and conversion constant equal to one hour.
- 16.4.11. If a customer is connected to a given physical unit, its electricity consumption shall be included as part of the calculation referred to in Section 16.4.10 and the calculation of  $\sum_{i=1}^{i=j} E_{hi}$ , referred to in Section 16.4.8 or 16.4.9, provided that the metering points relating to that customer have been indicated for a given physical unit in general certification, and the metering/billing data from those metering points are provided to the TSO as set forth in Section 18.4, subject to Section 16.4.12.
- 16.4.12. In order to take into account electricity consumption by a customer connected to a physical generating unit as set forth in Section 16.4.11, where the physical unit owner is not the DSO at the same time, the physical unit owner may perform the functions involving the verification and checking of metering/billing systems for compliance with requirements necessary for settlement procedures, as set forth in the Rules, provided that the metering and settlement systems relating to that customer are declared in general certification in the same manner as metering points, and metering/billing data are provided to the systems of the relevant TSO or DSOc on the terms and conditions agreed with it.

## **16.5. Methods of calculating the demand reduction volume**

- 16.5.1. The application for the use of a selected method of calculating the baseline profile for a given capacity market unit, if required or permitted in accordance with provisions issued under Article 68 of the Act, shall be submitted to the TSO by the capacity provider, with the use of the register or in the form of a separate document – if the register does not provide the relevant functionalities.
- 16.5.2. The application referred to in Section 16.5.1 shall contain:
- 1) designation of the capacity provider;
  - 2) designation of the market unit code;
  - 3) the name/designation of the baseline profile calculation method,
  - 4) other information, if required for the application to be considered, in accordance with the provisions issued under Article 68 of the Act.
- 16.5.3. The application referred to in Section 16.5.1:
- 1) is deemed to be accepted at the date of its submission – if the provisions issued under Article 68 of the Act treat the application as a notice that does not require substantive consideration, or
  - 2) shall be considered by the TSO within 14 calendar days – in other cases.
- 16.5.4. If the methodology for determining the base profile indicated in the application referred to in Section 16.5.1 requires the submission to the TSO of the delivery plans to physical demand side response units indicated in the application – the time limit referred to in Section 16.5.3 (2) shall be extended by the time necessary to obtain the required number of electricity delivery plans and to confirm that the requirements concerning the accuracy of planning are met.
- 16.5.5. The register user authorised to submit the application referred to in Section 16.5.1 shall be a person meeting the requirements specified in Section 4.1.6.
- 16.5.6. If the method of calculating the baseline profile defined for a given capacity market unit requires the submission of electricity delivery plans for a demand side response capacity market unit, the capacity provider shall submit electricity delivery plans with the use of the register or to the email address specified by the TSO – if the register does not provide relevant functionalities.

- 16.5.7. The electricity supply plans referred to in Section 16.5.6 shall be provided in accordance with the provisions issued under Article 68 of the Act.
- 16.5.8. The electricity supply plans referred to in Section 16.5.6 shall be drawn up with the indication of the volume of electricity to be supplied to a given demand side response capacity market unit in each hour, at least for the hours in which a system stress event may occur.
- 16.5.9. During the period when a baseline profile is applied to a given demand side response capacity market unit with the use of electricity supply plans, the electricity supply plan submitted for the unit shall be taken as the baseline profile for the purposes of calculating the capacity volume delivered as a result of temporary reduction in electricity consumption.

## **16.6. Conditions for release from the capacity obligation**

- 16.6.1. The following shall be taken into account in the settlement of the performance of the adjusted capacity obligation of a given capacity market unit during a system stress event:
  - 1) the TSO's instructions triggered by grid congestions,
  - 2) DSOs' instructions triggered by grid congestions,
  - 3) a sudden, unforeseeable event beyond the parties' control, the consequences of which could not reasonably be avoided or overcome, preventing the capacity provider from performing a capacity obligation volume of more than 40%.
- 16.6.2. Information on grid congestions in DSOs' grids and the TSO's instructions issued in connection with them, restricting the capability of physical units forming part of capacity market units to delivery capacity to the PPS, shall be provided to the TSO as set forth in Section 18.6.
- 16.6.3. Information on the occurrence of the situation referred to in Section 16.6.1 (3) shall be submitted by capacity providers to the TSO via the register without delay, but no later than 48 hours after its occurrence.
- 16.6.4. The information referred to in Section 16.6.3 shall contain at least:
  - 1) capacity market unit code assigned by the register;
  - 2) the name of the capacity provider or the first name and surname for a natural person;
  - 3) information on the physical unit forming part of the capacity market unit to which the emergency event refers;
  - 4) the maximum volume of capacity that a physical unit may deliver to the system in the case of a physical generating unit, or the maximum feasible volume of reduction in capacity consumption from the system in the case of a physical demand side response unit, to the best knowledge of the capacity provider at the date of submission of the information;
  - 5) date and time of commencement of the emergency event;
  - 6) date and time of removal of the constraints resulting from the emergency event, if the date and time of removal of such constraints are known or expected;
  - 7) a description of the emergency event justifying the submission of this information.
- 16.6.5. If at the time of submission of the information referred to in Section 16.6.3, the expected date and time are indicated for removing the constraints resulting from the emergency event that have changed, the capacity provider shall submit the update of the above-mentioned information to the TSO immediately via the register
- 16.6.6. The register user authorised to submit the information referred to in Section 16.6.4 and in Section 16.6.5 shall be a person meeting the requirements specified in Section 4.1.6.
- 16.6.7. Within 3 working days, the TSO shall verify the submitted information referred to in Section 16.6.3 in terms of compliance with the terms and conditions referred to in Article 58 (4) (2) of the Act and specified in the Rules.

- 16.6.8. If the information provided as referred to in Section 16.6.3, fails to comply with the conditions referred to in Article 58 (4) (2) of the Act or specified in the Rules, the TSO shall, within 3 working days from the date of submission of the information via the register, request the capacity provider to remedy the formal defects or deficiencies of the information, while indicating such formal defects or deficiencies in the request and setting the time limit not shorter than 3 working days for their remedy. Information on the request to rectify formal defects or deficiencies shall also be conveyed by a notice sent automatically to the register user's email address.
- 16.6.9. If the capacity provider fails to remedy defects or deficiencies within the set time limit, the TSO shall raise a reservation against such information using the register. If the reservation is raised, the submission of the information referred to in Section 16.6.3 shall be deemed ineffective for the TSO.
- 16.6.10. If the TSO raises a reservation to the information referred to in Section 16.6.3, the capacity provider shall have the right specified in Section 19 – “Complaint procedure”.
- 16.6.11. When settling the performance of the adjusted capacity obligation of a given capacity market unit in the system stress event affected by the event referred to in Section 16.6.1 (3), the TSO shall verify the condition referred to in Article 58 (4) (2) of the Act, in accordance with the following formula:

$$\frac{\sum_{n=1}^m OM_{ZNn}}{SOM} \leq 0,4$$

where:

$OM_{ZNn}$  – means: (i) the capacity volume referred to in Section 16.6.4 (4), indicated for  $n$ -th physical unit forming part of the capacity market unit, where  $m$  is the number of all physical units forming part of a given capacity market unit, if it has been reported, or (ii) the net maximum capacity of this physical unit, expressed in MW;

$SOM$  – means the adjusted capacity obligation of the capacity market unit in a given system stress event, expressed in MW.

- 16.6.12. Total volume of losses resulting from the events referred to in Section 16.6.1, is determined for the capacity market unit as :
- 1) if the condition referred to in Section 16.6.11 is met, for the units referred to in Section 16.2.2 (1), with respect to the system stress event:

$$U = \min \left\{ SOM, \sum_{n=1}^{n=m} (P_{osn} - OM_{ZNn}) \right\}$$

where:

$SOM$  – means the adjusted capacity obligation of the capacity market unit in a given system stress event, expressed in MW;

$P_{osn}$  – means the net maximum capacity of  $n$ -th physical unit forming part of the capacity market unit, where  $m$  is the number of all physical units forming part of the capacity market unit, expressed in MW;

$OM_{ZNn}$  – means: (i) the capacity volume referred to in Section 16.6.4 (4), indicated for  $n$ -th physical unit forming part of the capacity market unit, where  $m$  is the number of all physical units forming part of a given capacity market unit, if it has been reported, or (ii) the net maximum capacity of this physical unit, expressed in MW;

- 2) if the condition referred to in Section 16.6.11 is met, for units other than those specified in Section 16.2.2 (1), with respect to the system stress event:

$$U = \min \left\{ SOM, \sum_{n=1}^{n=m} \max \{ P_{osn} - OM_{zNn}, U_{Sn} \} \right\}$$

where:

*SOM* – means the adjusted capacity obligation of the capacity market unit in a given system stress event, expressed in MW;

*P<sub>osn</sub>* – means the net maximum capacity of *n*-th physical unit forming part of the capacity market unit, where *m* is the number of all physical units forming part of the capacity market unit, expressed in MW;

*OM<sub>zNn</sub>* – means: (i) the capacity volume referred to in Section 16.6.4 (4), indicated for *n*-th physical unit forming part of the capacity market unit, where *m* is the number of all physical units forming part of a given capacity market unit, if it has been reported, or (ii) the net maximum capacity of this physical unit, expressed in MW;

*U<sub>Sn</sub>* – means the capacity volume which cannot be delivered to the system due to grid congestions resulting from the operating orders of the TSO or DSO, by *n*-th physical unit forming part of a given capacity market unit, expressed in MW;

- 3) if the condition referred to in Section 16.6.11 is not met for the units referred to in Section 16.2.2 (1), with respect to the system stress event:

$$U = 0$$

- 4) if the condition referred to in Section 16.6.11 is not met for units other than those specified in Section 16.2.2 (1), with respect to the system stress event and for all units with respect to the test system stress event :

$$U = \min \left\{ SOM, \sum_{n=1}^{n=m} U_{Sn} \right\}$$

where:

*SOM* – means the adjusted capacity obligation of the capacity market unit in a given system stress event, expressed in MW;

*U<sub>Sn</sub>* – means the capacity volume which cannot be delivered to the system due to grid congestions resulting from the operating orders of the TSO or DSO, by *n*-th physical unit forming part of a given capacity market unit, expressed in MW;

- 16.6.13. Until the information referred to in Article 52 (2) of the Act is submitted to the TSO, the new generating capacity market unit shall not be obligated to perform the capacity obligation in the system stress events and test system stress event.

## 16.7. Demonstration of the ability to perform the capacity obligation

- 16.7.1. The specific number of hours in each quarter in which the capacity market unit delivered capacity to the system shall be reported to the TSO in the form of a declaration submitted in the register, hereinafter referred to as the “declaration on demonstration”, within 10 working days after the end of the quarter - unless the provisions issued under Article 68 of the Act provide otherwise.

- 16.7.2. For the purpose of demonstration, the performance of the full adjusted capacity obligation in the system stress event referred to in the provisions issued under Article 68 of the Act shall be understood as the performance of the adjusted capacity obligation by a given capacity

- market unit without taking into account the possibility of settling the non-performance of the capacity obligation as a result of the reallocation transaction referred to in Section 12.1.1 (2)
- 16.7.3. The register user authorised to submit the declaration on demonstration shall be the person who meets the requirements specified in Section 4.1.6
- 16.7.4. The declaration on demonstration shall include:
- 1) capacity market unit code assigned by the register;
  - 2) the name of the capacity provider or the first name and surname for a natural person;
  - 3) indication of the manner of demonstration in accordance with the provisions issued under Article 68 of Act;
  - 4) the date and time when the capacity market unit delivered capacity to the system for the purpose of demonstration, if applicable to the indicated manner of demonstration referred to in (3).
- 16.7.5. Submission of the declaration on demonstration shall be confirmed by the TSO by making a relevant entry in the register. A notice of making an entry of such information in the register shall also be sent automatically to the register user's email address.
- 16.7.6. While processing the declaration on demonstration in accordance with Section 16.7.8, the TSO uses the data and information submitted with the declaration, held in its own systems and acquired under the procedures referred to in Section 18.4.
- 16.7.7. The volume of capacity delivered to the system, referred to in Section 16.7.4 (4) shall be calculated on the basis of metering/billing data made available to the capacity provider in accordance with Section 16.9.5, subject to Section 16.7.12.
- 16.7.8. The examination of the declaration on demonstration shall consist in the verification of:
- 1) completeness and correctness of data and information provided;
  - 2) compliance with the conditions for demonstration referred to in Article 67 (3) of the Act and the provisions issued under Article 68 of the Act and the requirements specified in the Rules;
- 16.7.9. In case multiple declarations on demonstration have been submitted for a given capacity market unit, in relation to a given quarter of the delivery year, and a positive verification by the TSO of one of the submitted declarations, the remaining declarations shall be left unexamined
- 16.7.10. The result of demonstration of a given capacity market unit shall be considered:
- 1) positive – if the declaration on demonstration concerning this unit was positively verified by the TSO;
  - 2) negative - in other cases;
- 16.7.11. The TSO shall inform the capacity provider about the demonstration result via the register and a notification sent to the register user's email address within 10 working days of the second month after the end of the quarter which the declaration on demonstration regards.
- 16.7.12. If the capacity provider raises a reservation concerning the correctness of metering/billing data, in accordance with Section 16.9.6, and after the TSO finds that the data on the basis of which the demonstration was verified are incorrect, in the course of the verification referred to in Section 16.9.7, the TSO shall re-verify the declaration on demonstration on the basis of the corrected data made available to capacity providers in accordance with Section 16.9.8.
- 16.7.13. In the case referred to in Section 16.7.12, the TSO shall inform the capacity provider about the corrected demonstration result through the register within 5 working days from the date referred to in Section 16.9.8.
- 16.7.14. In the case of a negative result of the demonstration referred to in Section 16.7.10 (2), the capacity provider shall have the right specified in Section 19 – “Complaint procedure”.

## **16.8. Test system stress event**

## 16.8.1. Rules for the announcement of a test system stress event

- 16.8.1.1. The TSO may announce a test system stress event for selected capacity market units covered by the capacity obligation.
- 16.8.1.2. The TSO may not announce the test system stress event with respect to:
  - 1) a new generating capacity market unit – until the submission of the information referred to in Article 52 (2) of the Act to the TSO;
  - 2) a generating capacity market unit referred to in Section 16.2.2 (1) consisting of the physical generating unit being the energy storage facility, if the total volume of adjustments resulting from the orders of the TSO, calculated as in Section 16.2.13, prevents this unit from performing its full capacity obligation for at least one hour.
- 16.8.1.3. Notification of a test system stress event shall be made in the same manner as notification of a system stress event, as set forth in Section 16.3.2.1 (2) and (3), Section 16.3.2.2, 16.3.2.3 and 16.3.2.5.
- 16.8.1.4. For each capacity market unit, the test system stress event may be announced no more often than once a quarter.
- 16.8.1.5. The register user authorised to submit information or requests for the test system stress event described in Section 16.8 shall be a person meeting the requirements specified in Section 4.1.6.
- 16.8.1.6. In the case information on a failure of a physical unit forming part of the capacity market unit is provided to the TSO through the register, the TSO shall have no right to announce a test system stress event for that unit for 72 hours from its receipt, subject to Sections 16.8.1.7 – 16.8.1.9.
- 16.8.1.7. The provisions of Section 16.8.1.6 shall apply only to the first and second case of information being provided about the failure of a physical unit forming part of the same capacity market unit in each quarter.
- 16.8.1.8. Provision of information on the failure of a physical unit forming part of the capacity market unit after the announcement of the test system stress event for a given capacity market unit shall not release from the obligation to provide capacity during a given test system stress event.
- 16.8.1.9. Provision of information on the failure of a physical unit forming part of the capacity market unit shall not release from the obligation to perform the capacity obligation in the given test system stress event.
- 16.8.1.10. If the information about the failure of a physical unit forming part of a capacity market unit is provided later than 72 hours before the end of the quarter, the provisions of Section 16.8.1.6 shall apply. The notification referred to in the preceding sentence shall be included in the limit referred to in Section 16.8.1.7, with reference to the quarter in which the information about the failure was provided.
- 16.8.1.11. Information on failure of the physical unit being a part of the capacity market unit, referred to in Section 16.8.1.6, contains at least the following:
  - 1) capacity market unit code assigned by the register;
  - 2) code of the physical unit being part of the capacity market unit that has failed;
  - 3) the name of the capacity provider or the first name and surname for a natural person
- 16.8.1.12. If the test system stress event result is negative, the TSO may announce further test system stress events in the same quarter after the capacity provider has notified readiness to perform the capacity obligation until a positive result is obtained.
- 16.8.1.13. If the notification of readiness for performance of the capacity obligation referred to in Section 16.8.1.12, contains at least the following:
  - 1) capacity market unit code assigned by the register;
  - 2) the name of the capacity provider or the first name and surname for a natural person.

- 16.8.1.14. The request for the test system stress event referred to in the regulation issued under Article 68 of the Act shall contain at least:
- 1) capacity market unit code assigned by the register;
  - 2) the name of the capacity provider or the first name and surname for a natural person.

**16.8.2. Reimbursement of justified costs relating to the performance of the test system stress event**

- 16.8.2.1. If the test system stress event result is positive, the TSO shall, upon the request of the capacity provider, refund the reasonable costs associated with its performance, subject to the limitations referred to in Article 67 (5) of the Act
- 16.8.2.2. The application referred to in Section 16.8.2.1, hereinafter referred to as the “application for the reimbursement of justified costs” may be submitted to the TSO through the register no sooner than the day following the publication of the test system stress event results and no later than 30 calendar days after the publication of the test system stress event results.
- 16.8.2.3. The application for reimbursement of justified costs may be withdrawn by the capacity provider before the expiry of the time limit referred to in Section 16.8.2.2.
- 16.8.2.4. The application for reimbursement of justified costs shall include at least:
- 1) capacity market unit code assigned by the register;
  - 2) the name of the capacity provider or the first name and surname for a natural person;
  - 3) the date and time of the test system stress event, to which the application for the reimbursement of justified costs relates;
  - 4) requested amount to be refunded in PLN;
  - 5) in the case of a generating capacity market unit – a list of incurred costs for each physical unit forming part of a given capacity market unit, including:
    - a) justification of the reason for incurring them, and
    - b) information on the method of connection with the performance of the test system stress event.
- 16.8.2.5. Within 60 calendar days of receipt of the request for reimbursement of reasonable costs, the TSO shall verify its content for completeness and compliance with the requirements referred to in Article 67 (5) of the Act, and set out in the Rules.
- 16.8.2.6. Weekly remuneration of the capacity provider with respect to the capacity market unit referred to in Article 67 (5) of the Act is calculated for the week in which the test system stress event was performed for this capacity market unit.
- 16.8.2.7. The positive verification of the request for the reimbursement of reasonable costs is confirmed by the TSO by entering relevant information to the register in relation to the capacity market unit affected by the request for reimbursement of reasonable costs. A notice of making an entry of such information in the register shall also be sent automatically to the register user’s email address.
- 16.8.2.8. If the request for reimbursement of reasonable costs are found to be incomplete or doubts arise as to its content, in particular where the request for reimbursement of reasonable costs fails to meet the requirements set out in Article 67 (5) of the Act or in the Rules, the TSO shall request the capacity provider, through the register, to rectify formal defects or deficiencies of the request for reimbursement of reasonable costs, specifying such formal defects or deficiencies in the request and setting a time limit of not less than 7 working days for the rectification thereof. Information on the request to rectify formal defects or deficiencies shall also be conveyed by a notice sent automatically to the register user’s email address.
- 16.8.2.9. If the capacity provider fails to remedy formal defects or deficiencies within the time limit set by the TSO, the TSO shall reject the request for reimbursement of reasonable costs

with respect to the capacity market unit covered by the request, which shall be immediately reported to the capacity provider by including relevant information in the register. A notice of making an entry of such information shall also be sent automatically to the register user's email address.

16.8.2.10. Information on the negative verification of the request for reimbursement of reasonable costs shall include an indication of the reasons.

16.8.2.11. In the case of negative verification of the request for reimbursement of reasonable costs, the capacity provider shall have the right specified in Section 19 – "Complaint procedure".

### 16.8.3. **Test system stress event results**

16.8.3.1. The result of the test system stress event shall be considered:

- 1) positive – if the delivered capacity calculated in accordance with Section 16.4.2 or 16.4.7, increased by losses resulting from the orders of the TSO or DSO referred to in Section 16.6.1 (1) and (2), by the capacity market unit is not lower than the volume of the capacity obligation volume,
- 2) negative – in other cases.

16.8.3.2. The test system stress event result shall be made available by the TSO to the capacity provider through the register no later than the 10th calendar day of the month following the month *m* in which the test system stress event was carried out.

16.8.3.3. The TSO shall determine the test system stress event result on the basis of the most up-to-date metering/billing data made available to the capacity provider in accordance with Section 16.9.2 and 16.9.5.

16.8.3.4. After making the metering/billing data referred to in Section 16.9.5 available to the capacity providers, the TSO shall re-verify the test system stress event result on the basis of these data.

16.8.3.5. If the test system stress event result verified in accordance with Section 16.8.3.4 differs from the result referred to in Section 16.8.3.2, the TSO shall make the corrected result available to the capacity provider within 5 working days from the time limit referred to in Section 16.9.5.

16.8.3.6. If the capacity provider raises a reservation concerning the correctness of the metering/billing data, in accordance with Section 16.9.6, concerning the month *m* in which the test system stress event was performed and after identifying the inaccuracy of the data on the basis of which the test system stress event result was determined, in the course of the verification referred to in Section 16.9.7, the TSO shall re-verify the test system stress event result on the basis of the corrected data made available to the capacity providers in accordance with Section 16.9.8.

16.8.3.7. If the test system stress event result verified on the basis of the corrected metering/billing data referred to in Section 16.8.3.6 differs from the result referred to in Section 16.8.3.4, the TSO shall make the corrected result available through the register by the 5th working day following the date referred to in Section 16.9.8.

16.8.3.8. In case the test system stress event is completed with a negative result, for the period from the hour after the test system stress event to the hour (inclusive) in which the notification of readiness for performance of the capacity obligation by the capacity market unit was made via the register, the capacity provider shall not be entitled to remuneration for performance of the capacity obligation.

16.8.3.9. Notification of readiness for performance of the capacity obligation by the capacity market unit referred to in Section 16.8.3.8 may take place not earlier than during the hour for which the test system stress event was announced.

16.8.3.10. Non-payment of the remuneration referred to in Section 16.8.3.8 shall not release the capacity provider from the obligation to deliver capacity during the system stress event.

## 16.9. Provision of metering/billing data

- 16.9.1. The TSO shall determine the values used for the verification of the performance of the capacity obligation referred to in Section 16 – “Rules for performing the capacity obligation” on the basis of the metering/billing data acquired directly by the TSO or submitted in the manner referred to in Section 18.4.
- 16.9.2. The TSO shall make available to the capacity providers, through the register, the metering/billing data acquired in the basic mode for the month  $m$ , to the extent concerning the units disposed by them, by the 7th working day of the month  $m+1$ .
- 16.9.3. The metering/billing data referred to in Section 16.9.2 may be used for:
- 1) verifying the performance of the test system stress event in accordance with Section 16.8.3.2,
  - 2) verifying the demand side response performance test in accordance with Section 15.18,
  - 3) determining the coefficient factor  $W_{BNm_r}$  referred to in Section 17.1.4.1, if the metering/billing data referred to in Section 16.9.5 are not available,
  - 4) calculating the amount of bonus in accordance with Section 17.3.2.1, if the metering/billing data referred to in Section 16.9.5 are not available.

For the needs of other capacity market processes, the metering/billing data referred to in Section 16.9.2 are indicative only.

- 16.9.4. With respect to the metering/billing data referred to in Section 16.9.2, the capacity provider shall not have the right referred to in Section 16.9.6.
- 16.9.5. The TSO shall make available to the capacity providers, through the register, the metering/billing data in the additional mode for the month  $m$ , to the extent concerning the units disposed by them, by the 7th working day of the month  $m+2$ .
- 16.9.6. Within 5 working days of data publication in accordance with Section 16.9.5, the capacity provider may, with the use of the register, raise reservations regarding the correctness of the metering/billing data:
- 1) to the TSO – for data concerning metering points in the transmission grid,
  - 2) through the TSO, to the relevant transmission system operator connected to the NPS - for data concerning physical cross-border units,
  - 3) through the TSO, to the relevant DSOc – for data concerning metering points in the distribution grid of a given DSOc or DSO<sub>n</sub> cooperating with the TSO through the DSOc.
- 16.9.7. Having received a reservation regarding the correctness of the metering/billing data in accordance with Section 16.9.6, the relevant operator shall, by the 5th calendar day of the month  $m+3$ , re-verify the metering/billing data for the month  $m$ .
- 16.9.8. If the TSO finds that the metering/billing data are incorrect in the course of the verification referred to in Section 16.9.7, the TSO shall make the corrected data available to the capacity providers on the 7th working day of the month  $m+3$ .
- 16.9.9. In case a reservation is raised concerning the correctness of the metering/billing data with respect to the metering points assigned to more than one physical unit and after finding their incorrectness, the TSO shall make the corrected data available, in accordance with Section 16.9.8, for all physical units to which the metering points in question are assigned.
- 16.9.10. After the expiry of the time limit referred to in Section 16.9.6, if the capacity provider has not reported any reservations concerning the correctness of the metering/billing data, and after the expiry of the time limit for making the corrected metering/billing data available, referred to in Section 16.9.8, the metering/billing data and the values determined on their basis, used for the verification of performance of the capacity obligation and settlements, shall not be corrected, and the capacity provider together with the competent operator shall lose the right to correct the metering/billing data.

## **17. Settlements in the capacity market**

### **17.1. Remuneration for the performance of the capacity obligation**

#### **17.1.1. General rules**

- 17.1.1.1. The basis for the capacity provider to issue an invoice for the performance of the capacity obligation shall be the information provided by the TSO, referred to in Article 58 (6) of the Act, containing the value of monthly remuneration. If the value of the monthly remuneration indicated in the information referred to above is zero, the capacity provider shall not issue an invoice for the performance of the capacity obligation.
- 17.1.1.2. The information referred to in Section 17.1.1.1 shall be provided by the TSO to the capacity provider and the settlement body within 7 calendar days after the end of the settlement month, subject to Section 17.1.4.9.
- 17.1.1.3. The entity obliged to pay remuneration for the performance of the capacity obligation shall be the settlement body referred to in Article 61 (2) of the Act. The payment shall be made in accordance with the TSO's written order submitted to the settlement body referred to in Section 17.1.3.2.
- 17.1.1.4. The capacity provider shall provide the TSO with the information on the bank account number to which the remuneration, reasonable costs of the test system stress event or the bonus is to be paid for each capacity market unit.
- 17.1.1.5. The information referred to in Section 17.1.1.4, should be signed by persons authorised to represent the capacity provider under an entry in the relevant register.
- 17.1.1.6. The capacity provider shall provide the TSO with the information referred to in Section 17.1.1.4, not later than 14 calendar days prior to the commencement of the delivery year:
  - 1) in the original, as hard copy, or
  - 2) in electronic form, through the register, or
  - 3) in a copy certified for conformity with the original by the register user, in accordance with Section 4.4.10, through the register.
- 17.1.1.7. If the information referred to in Section 17.1.1.4 is not submitted within the time limit referred to in Section 17.1.1.6, it may constitute the grounds for withholding the payment of remuneration, bonus or reimbursement of reasonable cost of the test system stress event for a given capacity market unit, until such information is submitted and after 30 calendar days after its submission.
- 17.1.1.8. If the bank account number to which the remuneration, the reasonable cost of the test system stress event or bonus is to be paid is changed during the delivery year, the capacity provider shall immediately provide the information referred to in Section 17.1.1.4, including indication of the date of change. If the bank account number is changed, Section 17.1.1.7 shall apply accordingly.

#### **17.1.2. Circulation of accounting documents**

- 17.1.2.1. The invoices and correcting invoices referred to in Section 17.1.2.4 and Section 17.1.2.8, shall be sent to the TSO in electronic form through the electronic data exchange platform used at Polskie Sieci Elektroenergetyczne S.A., subject to Section 17.1.2.2 and Section 17.1.2.3.
- 17.1.2.2. The capacity provider shall use the platform referred to in Section 17.1.2.1 voluntarily and in accordance with the conditions described in the documents published on the TSO's website.
- 17.1.2.3. If the capacity provider does not agree to use the platform referred to in Section 17.1.2.1, the capacity provider shall send invoices and correcting invoices by e-mail to the e-mail address: [rozliczenia.rm@pse.pl](mailto:rozliczenia.rm@pse.pl).
- 17.1.2.4. The accounting document that provides a basis for payment of remuneration for the performance of the capacity obligation shall be an invoice.

- 17.1.2.5. The invoice referred to in Section 17.1.2.4 shall be issued by the capacity provider within 3 working days of receipt from the TSO of the information referred to in Section 17.1.1.1.
- 17.1.2.6. The invoice referred to in Section 17.1.2.4 shall be issued in compliance with the Value Added Tax Act.
- 17.1.2.7. The invoice referred to in Section 17.1.2.4 shall be sent to the TSO in accordance with the conditions specified in Section 17.1.2.1– 17.1.2.3.
- 17.1.2.8. If the invoice referred to in Section 17.1.2.4, or the correcting invoice, is issued incorrectly, the TSO shall immediately request the capacity provider to issue a correcting invoice or a correcting note, and shall submit it to the capacity provider.
- 17.1.2.9. The correcting invoice referred to in Section 17.1.2.8 shall be issued by the capacity provider with respect to the last invoice issued, within 3 working days following the receipt from the TSO of the request referred to in Section 17.1.2.8 and sent it to the TSO in accordance with the conditions specified in Section 17.1.2.1– 17.1.2.3.
- 17.1.2.10. The correcting invoice or correcting note referred to in Section 17.1.2.8 shall be issued in compliance with the Value Added Tax Act.

### 17.1.3. Settlement deadlines

- 17.1.3.1. The capacity provider shall issue to the TSO the invoice referred to in Section 17.1.2.4, or the correcting invoice referred to in Section 17.1.2.8, separately for each capacity market unit, with a payment date of 21 calendar days from the date of its receipt by the TSO.
- 17.1.3.2. TSO, within 10 working days from the receipt of a correctly issued invoice from the capacity provider as referred to in Section 17.1.2.4, or the correcting invoice referred to in Section 17.1.2.8, shall prepare and provide the settlement body with a written order containing, with respect to each capacity market unit to which the remuneration is due in a given settlement period, at least:
  - 1) the capacity provider's name,
  - 2) capacity market unit code,
  - 3) number of the VAT invoice issued by the capacity provider,
  - 4) VAT invoice payment period,
  - 5) payment description,
  - 6) settlement period,
  - 7) net amount and gross amount due to the capacity provider,
  - 8) the bank account number to which the remuneration is to be paid.
- 17.1.3.3. The settlement body shall be responsible for payment of the remuneration within the payment period prescribed in Section 17.1.3.1.

### 17.1.4. Remuneration calculation method

- 17.1.4.1. The value of the net monthly remuneration for the performance of the capacity obligation shall be calculated separately for each capacity market unit in accordance with the following formula:

$$W_m = \sum_{h=1}^{h=n} \max \left\{ 0, \sum_{k=1}^{k=0} \left( \frac{1000}{L_h} \cdot C_{om_{hk}} \right) \cdot \left( OM_{hk} - \frac{A \cdot OM_{hk}}{\sum_{k=1}^{k=0} OM_{hk}} \right) \right\}$$

where:

$W_m$  – means the net remuneration due to the capacity market unit for the month  $m$ , expressed in PLN;

- $h$  – means the subsequent hours of the month  $m$ , in which the system stress event may occur, where  $n$  is the number of hours in the month  $m$ , in which the system stress event may occur;
- $k$  – means subsequent capacity obligations for a capacity market unit in the hour  $h$ , where  $o$  is the number of capacity obligations for a capacity market unit in the hour  $h$ , including secondary trading;
- $L_h$  – means the number of hours during which a system stress event may occur in a given delivery year;
- $C_{om_{hk}}$  – means the price of  $k$ -th capacity obligation in the hour  $h$ , expressed in PLN/kW/year;
- $OM_{hk}$  – means the volume of the  $k$ -th capacity obligation, by which the capacity market unit is covered in the hour  $h$ , expressed in MW;
- $A$  – means the capacity volume by which the remuneration is adjusted pursuant to Article 63 of the Act, for each hour of the month to which the remuneration refers, expressed in MW in accordance with the following formula:

$$A = \frac{1}{24 \cdot D_m \cdot H} \cdot \sum_{r=1}^{r=p} (E_{br_{m_r}} \cdot W_{BN_{m_r}} + E_{net_{m_r}})$$

where:

- $D_m$  – means the number of calendar days in the month  $m$ ;
- $H$  – means the conversion constant of 1 hour;
- $r$  – means subsequent physical units forming part of the capacity market unit, where  $p$  is the number of physical units forming part of the capacity market unit;
- $E_{br_{m_r}}$  – means the gross electricity volume for the month  $m$ , for which the physical unit  $r$  forming part of the capacity market unit was granted support under state aid system other than the capacity market, based on the settlement of gross electricity, subject to deduction from the remuneration for the performance of the capacity obligation in accordance with the provisions of Article 63 of the Act, expressed in MWh;
- $E_{net_{m_r}}$  – means the net electricity volume for the month  $m$ , for which the physical unit  $r$  forming part of the capacity market unit was granted support under state aid system other than the capacity market, based on the settlement of net electricity, subject to deduction from the remuneration for the performance of the capacity obligation in accordance with the provisions of Article 63 of the Act, expressed in MWh;
- $W_{BN_{m_r}}$  – means the average gross/net conversion factor of a physical unit  $r$  in the month  $m$ , calculated in accordance with the following formula:

$$W_{BN_{m_r}} = \frac{\sum_{h=1}^{h=24 \cdot D_m} \max \left\{ \sum_{k=1}^{k=l} E_{N_{h_k}}, 0 \right\}}{\sum_{h=1}^{h=24 \cdot D_m} \left( \sum_{i=1}^{i=j} E_{B_{m_i}} \right)}$$

where:

- $E_{N_{h_k}}$  – means the electricity volume measured in  $k$ -th metering point in the generator output circuit of a given physical unit  $r$ , in the hour  $h$ , where  $l$  is the number of generator output circuits of a given unit, expressed in MWh;
- $E_{B_{m_i}}$  – means the electricity volume measured at the terminals of  $i$ -th generator, in the hour  $h$ , where  $j$  is the number of generators being a part of a given physical unit  $r$ , expressed in MWh.

- 17.1.4.2. In relation to the capacity market unit to which the remuneration for a given settlement month  $m$  is due, the capacity provider shall, within 5 calendar days after the end of the settlement period, provide the TSO, through the register, with the information on:
- 1) the intention to apply for granting support to physical units being a part of the capacity market unit under state aid system other than the capacity market, subject to deduction from the remuneration for the performance of the capacity obligation in accordance with the provisions of Article 63 of the Act, or
  - 2) lack of intention to apply for granting support to the physical units being a part of the capacity market unit under state aid system other than the capacity market, subject to deduction from the remuneration for the performance of the capacity obligation in accordance with the provisions of Article 63 of the Act.
- 17.1.4.3. If the capacity provider fails to provide the information referred to in Section 17.1.4.2 within the specified time limit, the date for submission of the information referred to in Section 17.1.1.1, may be extended to 3 working days from the date of submission of the information referred to in Section 17.1.4.2.
- 17.1.4.4. As part of the supplementation of the information referred to in Section 17.1.4.2 (1), the capacity provider shall provide the TSO through the register, immediately after their acquisition, with data on the electricity volume resulting from the support granted to this unit under state aid system other than the capacity market, based on:
- 1) settlement of gross electricity subject to deduction from the remuneration for performance of the capacity obligation in accordance with the provisions of Article 63 of the Act, expressed in MWh ( $E_{br_{m_r}}$ ), or
  - 2) settlement of net electricity subject to deduction from the remuneration for performance of the capacity obligation in accordance with the provisions of Article 63 of the Act, expressed in MWh ( $E_{net_{m_r}}$ ).
- 17.1.4.5. If the capacity provider submits to the TSO the information referred to in Section 17.1.4.2 (2) the component  $A$  in the formula in Section 17.1.4.1 is 0.
- 17.1.4.6. In case TSO has received a reservation concerning the correctness of the metering/billing data for the month  $m$ , in accordance with Section 16.9.6 and after the TSO finds that the data on the basis of which the component  $A$  was determined in the formula in Section 17.1.4.1 are incorrect, the TSO shall correct the information referred to in Section 17.1.1.1.
- 17.1.4.7. If the amount of support under state aid system other than the capacity market, deductible from the remuneration for the performance of the capacity obligation in accordance with the provisions of Article 63 of the Act, granted to the physical units being a part of the capacity market unit, is PLN 0/MWh, the component  $A$  in the formula in Section 17.1.4.1 is 0.
- 17.1.4.8. The register user authorised to submit the information referred to in Section 17.1.4.2, shall be a person meeting the requirements specified in Section 4.1.6 or holding the relevant authorisation granted by the rightholder of a given entity.
- 17.1.4.9. Where the information referred to in Section 17.1.4.2 (1) is submitted, the TSO shall submit to the capacity provider and to the settlement body the information referred to in Section 17.1.1.1 within 7 calendar days of the submission by the capacity provider of the information referred to in Section 17.1.4.4.
- 17.1.4.10. In the case referred to in Article 47 (2), the remuneration due for the performance of the capacity obligation referred to in Section 17.1.4.1, shall be charged from the day after the date on which the information referred to in Article 52 (2) of the Act is submitted, provided that the TSO confirms the completion of the SCM by making an entry in the register referred to in Section 14.1.2.9.
- 17.1.4.11. In the case the TSO has not confirmed the completion of the SCM in the same month in which the information referred to in Article 52 (2) of the Act is provided, the remuneration for the period referred to in Section 17.1.4.10 shall be paid together with the remuneration

due for the month in which the TSO confirmed the completion of the SCM by making an entry in the register referred to in Section 14.1.2.9.

#### **17.1.5. Refund of remuneration for the performance of the capacity obligation**

- 17.1.5.1. In case of a negative result of the demonstration referred to in Section 16.7.10 (2) concerning a given capacity market unit, the capacity provider shall refund the remuneration for the performance of the capacity obligation due under all capacity agreements covering that capacity market unit for the entire quarter to which the demonstration related.
- 17.1.5.2. The accounting document that provides a basis for refund of the remuneration for the performance of the capacity obligation shall be an correcting invoice.
- 17.1.5.3. Correcting invoices referred to in Section 17.1.5.2, shall be issued by the capacity provider with regard to all invoices referred to in Section 17.1.2.4, or with regard to the last issued correcting invoices referred to in Section 17.1.2.8, concerning the quarter for which the remuneration refund is due.
- 17.1.5.4. The capacity provider shall issue correcting invoices referred to in Section 17.1.5.2 by the 10th working day following:
  - 1) the receipt from the TSO of the information referred to in Section 16.7.11 – for the case described in Section 16.7.10 (2), or
  - 2) after the lapse of the time limit referred to in Section 16.7.13 – if the capacity provider raises reservations concerning the correctness of the metering/billing data in accordance with Section 16.9.6 and after finding that they are incorrect, in the course of the verification referred to in Section 16.9.7, or
  - 3) after the lapse of the time limit referred to in Section 19.3 (3) – if the capacity provider has exercised the right referred to in Section 16.7.14.
- 17.1.5.5. The correcting invoice referred to in Section 17.1.5.2 shall be issued in compliance with the Value Added Tax Act.
- 17.1.5.6. The correcting invoice referred to in Section 17.1.5.2, shall be sent to the TSO in accordance with the conditions specified in Section 17.1.2.1 – 17.1.2.3.
- 17.1.5.7. The capacity provider shall refund to the TSO's bank account the remuneration for the entire quarter within 14 calendar days from the issue of the correcting invoices referred to in Section 17.1.5.2.

#### **17.1.6. Refund of remuneration or bonus due to non-compliance with the emission limit**

- 17.1.6.1. Settlements in respect of refund of the remuneration for the performance of the capacity obligation or bonus shall be made in settlement periods equal to the calendar year in which the capacity market unit did not meet the emission limit, in accordance with Section 14.3.16.
- 17.1.6.2. The accounting document that provides a basis for refund of the remuneration or bonus for the performance of the capacity obligation shall be an correcting invoice.
- 17.1.6.3. Correcting invoices referred to in Section 17.1.6.2, shall be issued by the capacity provider with regard to all invoices referred to in Section 17.1.2.4 or in Section 17.3.3.1, or with regard to the last issued correcting invoices referred to in Section 17.1.2.8 or in Section 17.3.3.5, issued with reference to the settlement periods falling in the calendar year in which the remuneration or bonus refund is due.
- 17.1.6.4. The capacity provider shall issue correcting invoices referred to in Section 17.1.6.2, within 10 working days after receiving from the TSO the information referred to in Section 14.3.16, and if the capacity provider exercises the right referred to in Section 19.1 (6)– within 10 working days after the TSO has examined the complaint.

- 17.1.6.5. The correcting invoice referred to in Section 17.1.6.2 shall be issued in compliance with the Value Added Tax Act.
- 17.1.6.6. The correcting invoice referred to in Section 17.1.6.2, is sent to the TSO in accordance with and conditions specified in Section 17.1.2.1 – 17.1.2.3.
- 17.1.6.7. The capacity provider shall refund the remuneration or bonus to the TSO's account within 14 calendar days from issuing the correcting invoices referred to in Section 17.1.6.2.

**17.1.7. Adjustment of the capacity obligation prices**

- 17.1.7.1. The adjustment of the capacity obligation prices shall apply only to capacity obligations under the capacity agreements lasting more than 1 delivery period as a result of the main auction.
- 17.1.7.2. The capacity obligation price resulting from a capacity agreement made for more than 1 delivery period shall undergo annual adjustment, subject to Sections 17.1.7.3 - 17.1.7.4.
- 17.1.7.3. Adjustment of the capacity obligation price shall take place in December of the calendar year preceding the year from which the adjusted capacity obligation price starts to apply.
- 17.1.7.4. The first adjustment of the capacity obligation price shall take place in December of the first delivery year and the adjusted price shall apply from the second delivery year.
- 17.1.7.5. The capacity obligation price shall be adjusted by multiplying the base value of the capacity obligation price referred to in Section 17.1.7.6 and the adjustment index referred to in Section 17.1.7.7, in accordance with the following formula:

$$C_{omw} = C_{om} \cdot \frac{W_I}{100}$$

where:

$C_{omw}$  – means the capacity obligation price taking into account adjustment (adjusted capacity obligation price), expressed in PLN/kW/year;

$C_{om}$  – means the base value of the capacity obligation price, expressed in PLN/kW/year;

$W_I$  – means the average annual consumer price index.

- 17.1.7.6. In a given delivery year  $n$ , the base value of the capacity obligation price shall be:
  - 1) the clearing price of the main auction in which the capacity provider has concluded a capacity agreement for a given capacity market unit, or the capacity obligation price of a capacity market unit less the value of state aid granted in accordance with Section 17.1.8.3, expressed in PLN/kW/year – in the case of the first adjustment of the capacity obligation price referred to in Section 17.1.7.4, subject to Section 17.1.7.9;
  - 2) capacity obligation price applicable to the capacity provider in the previous year, expressed in PLN/kW/year – in the case of a subsequent adjustment of the capacity obligation price relating to the same capacity agreement.
- 17.1.7.7. In a given delivery year  $n$ , the adjustment index  $W_I$  shall equal the average total annual consumer price index for the year  $n-2$ , specified in a communique of the President of the Polish Central Statistical Office, published in the Official Journal of the Republic of Poland "Monitor Polski".
- 17.1.7.8. The adjusted value of the capacity obligation price shall be constant in a given delivery period and it shall not be subject to any arrangements between the parties to a capacity agreement.
- 17.1.7.9. In case of capacity market units which have not met the requirements referred to in Article 52 (2) of the Act, prior to the commencement of the first delivery period, the price of

capacity obligation shall be adjusted before the reduction of the remuneration referred to in Section 17.1.8.1.

#### 17.1.8. Rules for the deduction of investment state aid

- 17.1.8.1. Pursuant to Article 62 (1) of the Act, the remuneration for the performance of the capacity obligation for a new and refurbishing generating capacity market unit shall be reduced by the amount of the investment state aid earmarked for the construction or refurbishment of the unit, granted until the commencement of the first delivery period for that unit.
- 17.1.8.2. The reduction of the remuneration referred to in Section 17.1.8.1 shall be effected:
- 1) on a pro rata basis throughout the whole capacity obligation period, reducing the capacity obligation price,
  - 2) in the capacity agreement, prior to the commencement of the first delivery period, subject to Section 17.1.8.7,
  - 3) based on information on the amount of state aid granted, provided to the TSO in accordance with Article 52 (2) (4) of the Act, subject to Section 14.1.2.15 and Sections 14.2.28 - 14.2.29.
- 17.1.8.3. The capacity obligation price of a capacity market unit, reduced by the value of state aid granted, shall be calculated in accordance with the following formula:

$$C_{om}' = \max\left\{0, \left(C_{om} - \frac{WPP}{1000 \cdot OM \cdot t}\right)\right\}$$

where:

- $C_{om}'$  – means the reduced capacity obligation price for a given capacity market unit, expressed in PLN/kW/year,
- $C_{om}$  – means the capacity obligation price for a given capacity market unit, resulting from a capacity agreement, expressed in PLN/kW/year,
- WPP – means the amount of state aid granted with regard to a given capacity market unit, expressed in PLN,
- CO – means the volume of capacity obligations of a given capacity market unit resulting from the capacity agreement concluded as a result of a capacity auction, expressed in MW,
- t – means:
- 1) for the capacity market units which have complied with the requirements referred to in Article 52 (2) of the Act prior to the commencement of the first delivery period – the duration of the capacity obligation resulting from the capacity agreement concluded as a result of the capacity auction, expressed in years,
  - 2) for the capacity market units which have not complied with the requirements referred to in Article 52 (2) of the Act prior to the commencement of the first delivery period – the remaining time until the termination of the capacity agreement concluded as a result of the capacity auction, counted from the month following the month in which the above requirements have been complied with, expressed in years, in accordance with the following formula:

$$t = \frac{L_m}{12}$$

where:

$L_m$  – means the number of months remaining to complete the capacity agreement concluded as a result of the capacity auction, starting from the month following the month in which the aforementioned requirements are complied with.

- 17.1.8.4. The capacity obligation price reduced by the value of the state aid granted, calculated in accordance with Section 17.1.8.3, shall be rounded down to second decimal place.
- 17.1.8.5. The amount of state aid subject to deduction as set forth in Section 17.1.8 shall be calculated in accordance with the rules set forth in the Regulation of the Council of Ministers of 1 March 2018 on the detailed manner of calculating state aid granted in various forms.
- 17.1.8.6. Deduction of the capacity obligation price shall be permanent, i.e. irrespective of any transactions made in the secondary market with regard to those capacity obligations, their price shall remain reduced.
- 17.1.8.7. The reduction of the remuneration referred to in Section 17.1.8.1 shall be performed not earlier than upon confirmation by the TSO that the requirements referred to in Article 52 (2) of the Act have been met.

#### 17.1.9. **Certificate of tax residency (foreign capacity providers)**

- 17.1.9.1. The capacity provider shall be required to submit to the TSO, at each request of the TSO, a tax residency certificate issued by the relevant tax authorities of the capacity provider's country of establishment, current at the invoice issue date.
- 17.1.9.2. The net remuneration referred to in the capacity provider's invoice, calculated in accordance with the provisions of the capacity agreement, shall take into account the amount of tax due in the Republic of Poland on income derived by foreign entities. Where required under laws and regulations applicable in the Republic of Poland, the amount of tax due to in the Republic of Poland shall be deducted from the remuneration payable to the capacity provider. The deduction shall be made at the rate and on the terms specified in the applicable laws and regulations. The tax rate and the rules for tax collection shall be notified to the capacity provider before the expiry of the remuneration payment period.
- 17.1.9.3. The capacity provider shall be required to submit to the TSO a certified true copy of documents confirming the capacity provider's registration for VAT purposes within the territory of the Republic of Poland, immediately after the conclusion of the capacity agreement or at the date of invoice issue, and to immediately inform the TSO of any change in the capacity provider's registration for VAT purposes within the territory of the Republic of Poland.
- 17.1.9.4. Copies of the documents referred to in Sections 17.1.9.1 and 17.1.9.3 may be additionally sent through the register.

#### 17.1.10. **Reimbursement of reasonable costs of the test system stress event**

- 17.1.10.1. The accounting document that provides a basis for reimbursement of reasonable costs of the test system stress event shall be an invoice.
- 17.1.10.2. Within 14 calendar days from the receipt of the information referred to in Section 16.8.2.7, the capacity provider shall issue an invoice referred to in Section 17.1.10.1 and shall send it to the TSO in accordance with the conditions specified in Sections 17.1.2.1 – 17.1.2.3, subject to Section 17.1.10.5.
- 17.1.10.3. The TSO, within 14 calendar days from the receipt of a correctly issued invoice from the capacity provider as referred to in Section 17.1.10.1, shall transfer the amount due to the bank account number indicated in accordance with Section 17.1.1.4.
- 17.1.10.4. The invoice referred to in Section 17.1.10.1 shall be issued in compliance with the Value Added Tax Act.

17.1.10.5. If the capacity provider has exercised the right referred to in Section 16.8.2.11, the capacity provider shall issue an invoice referred to in Section 17.1.10.1, within 14 calendar days after the lapse of the time limit referred to in Section 19.3 (1).

## 17.2. Penalties

### 17.2.1. General rules for charging penalties for failure to perform the capacity obligation

17.2.1.1. The TSO shall have the right to charge a penalty to a capacity provider for failure to perform the capacity obligation under Article 59 and Article 67 (8) of the Act.

17.2.1.2. As the basis for charging the penalty for non-performance of the capacity obligation, the TSO shall adopt the information on the performance of the adjusted capacity obligation referred to in Section 16.2.23. In the case referred to in Section 16.2.35, as the basis for charging penalty, the TSO shall adopt the information on the performance of the adjusted capacity obligation referred to in Section 16.2.36.

17.2.1.3. TSO shall submit to the capacity provider the information on the penalty:

- 1) for a negative result of the test system stress event – (i) within 5 working days after the lapse of the time limit for making available the adjusted test system stress event result referred to in Section 16.8.3.5, if the capacity provider has not raised reservations concerning the correctness of the metering/billing data referred to in Section 16.9.6 or (ii) within 5 working days after the lapse of the time limit for making available the adjusted test system stress event result referred to in Section 16.8.3.7, if the capacity provider has raised a reservation concerning the correctness of metering/billing data in accordance with Section 16.9.6;
- 2) for non-performance of the capacity obligation in the system stress event in the month  $m$  – by the 10th working day of the month  $m+4$ .

17.2.1.4. The penalty shall be paid by the capacity provider on the basis of an accounting note issued by the TSO, referred to in Section 17.2.3.1.

### 17.2.2. Method of penalty amount calculation

17.2.2.1. The penalty for non-performance of the capacity obligation shall be calculated separately for each capacity market unit in accordance with the following formula:

$$K_N = \sum_{z=1}^{z=j} \max\{0, (WOM_{Kz} - ROM_{rozl_z}) \cdot SK_n \cdot H\}$$

where:

- $K_N$  – means the monthly penalty rate for failure to perform the capacity obligation, expressed in PLN;
- $z$  – means subsequent system stress events, where  $j$  is the number of system stress events in a given month;
- $WOM_{Kz}$  – means the value of non-performance of the capacity obligation of a given capacity market unit in a system stress event  $z$  referred to in Section 16.2.37, expressed in MW;
- $ROM_{rozl_z}$  – means the value being the settlement of non-performance of the capacity obligation by supplying capacity by another capacity market unit as a result of the reallocation transaction referred to in Section 12.1.1 (2), in a system stress event  $z$ , expressed in MW;
- $SK_n$  – means the unit penalty rate in the delivery year  $n$ , calculated as defined in the Regulation referred to in Article 68 (2) of the Act, expressed in PLN/MW/h;

$H$  – means the conversion constant of 1 hour.

- 17.2.2.2. The sum of penalties charged to the capacity provider regarding single capacity market unit in a given delivery year may not exceed the limit calculated in accordance with the following formula:

$$L_R = 2 \cdot CO_{max} \cdot C_{co\ max} \cdot K$$

where:

$L_R$  – means the highest acceptable sum of penalties in a given delivery year, expressed in PLN;

$CO_{max}$  – means the greatest capacity obligation of a capacity market unit in a given delivery year as of the moment of charging the penalty, expressed in MW;

$C_{co\ max}$  – means the highest capacity auction clearing price for a given delivery year, expressed in PLN/MW/year;

$K$  – means the conversion constant of 1 year.

- 17.2.2.3. The sum of penalties charged to the capacity provider regarding single capacity market unit in a given month of the delivery year may not exceed the limit calculated in accordance with the following formula:

$$L_M = \frac{1}{5} \cdot L_R$$

where:

$L_M$  – means the highest acceptable sum of penalties in a given delivery month, expressed in PLN;

$L_R$  – means the highest acceptable sum of penalties in a given delivery year, calculated in accordance with Section 17.2.2.2, expressed in PLN.

- 17.2.2.4. If the limits, referred to in Section 17.2.2.2 or in Section 17.2.2.3 are exceeded by a given capacity market unit, no later than on May 15th of each delivery year, the TSO shall re-verify the amount of penalties for non-performance of the capacity obligation due from the capacity provider in relation to a given capacity market unit in the previous delivery year, and shall submit to the capacity provider the information on the amount of penalty being the sum of penalties that have not become due as a result of the exceeded limits referred to in Section 17.2.2.2 or in Section 17.2.2.3, as of the moment of charging the penalty.

### 17.2.3. Circulation of accounting documents

- 17.2.3.1. The accounting document that provides a basis for charging penalties for non-performance of the capacity obligation shall be an accounting note.

- 17.2.3.2. Within 14 calendar days from the submission of information on the penalty rate in accordance with Section 17.2.1.3 or Section 17.2.2.4, the TSO shall issue the accounting note referred to in Section 17.2.3.1 with the payment date of 14 calendar days from the date the note is issued by the TSO.

- 17.2.3.3. An accounting note referred to in Section 17.2.3.1 shall be issued by the TSO and sent to the capacity provider.

### 17.2.4. Penalties for a negative result of the test system stress event

- 17.2.4.1. If the result of the test system stress event is negative, as referred to in Section 16.8.3.1 (2), the capacity provider in each case shall pay a penalty in accordance with Article 67 (8) of the Act.

- 17.2.4.2. Penalties for a negative result of the test system stress event shall be determined in the manner described in Section 17.2.2, subject to Section 17.2.4.3.

- 17.2.4.3. For the purpose of calculating the penalty for a negative result of the test system stress event in accordance with Section 17.2.2.1, it is assumed that the value SOMz referred to in Section 16.2.37 is equal to the sum of capacity obligations of a given capacity market unit in this test system stress event.
- 17.2.4.4. The TSO shall inform the capacity provider and the settlement body of the non-payment of the remuneration referred to in Section 16.8.3.8, together with the information referred to in Section 17.1.1.1.
- 17.2.4.5. In the cases referred to in Section 16.8.3.5 and 16.8.3.7, the TSO shall correct the information referred to in Section 17.1.1.1 and in Section 17.2.1.3.
- 17.2.4.6. In the case referred to in Section 16.8.3.8, the capacity obligation price ( $C_{om_{hk}}$ ), referred to in Section 17.1.4.1, shall be taken to be PLN 0/kW/year.

### 17.2.5. Penalties resulting from the delay in SCM completion

- 17.2.5.1. The monthly penalty rate charged to the capacity provider, referred to in Article 47 (2) of the Act, is calculated according to the following formula:

$$K_{OKM} = k_{ust} \cdot n \cdot \frac{1000}{L_H} \cdot C_{om_{max}} \cdot OM_u$$

where:

- $K_{OKM}$  – means the penalty rate charged to the capacity provider referred to in Article 47 (2) of the Act in the month  $m$ ;
- $k_{ust}$  – means the penalty rate referred to in Article 47 (2) of the Act, expressed in percentage;
- $n$  – means the number of hours in the month  $m$ , in which a system stress event may occur;
- $L_H$  – means the number of hours in a year during which the system stress event may occur;
- $C_{om_{max}}$  – means the highest capacity auction clearing price for a given delivery year, expressed in PLN/MW/year;
- $OM_u$  – means the volume of the capacity obligation resulting from the concluded capacity agreement, expressed in MW.
- 17.2.5.2. The accounting document which forms the basis for charging penalties resulting from the delay in SCM completion shall be the accounting note.
- 17.2.5.3. Within 14 calendar days from the end of the month for which the penalty referred to in Section 17.2.5.1 is due, the TSO shall issue an accounting note with a payment date of 14 calendar days from the date of its issuance by the TSO.
- 17.2.5.4. An accounting note referred to in Section 17.2.5.3 shall be issued by the TSO and sent to the capacity provider.
- 17.2.5.5. In the case referred to in the first sentence of Article 47 (4) of the Act, if at the moment of calculating the penalty, the final results of all capacity auctions relating to the periods for which the penalty is charged are not announced, the highest capacity auction clearing price ( $C_{om_{max}}$ ) shall be the highest capacity auction clearing price among all capacity auctions relating to the period for which the penalty is due, for which the final results have been announced.

## 17.3. Bonus for delivery of capacity in excess of the adjusted capacity obligation

### 17.3.1. General rules for bonus calculation

17.3.1.1. The TSO shall calculate the bonus referred to in Article 66 of the Act for capacity providers whose units have delivered capacity in excess of the adjusted capacity obligation in a given system stress event:

- 1) in the case of capacity market units situated in the system, which have a capacity agreement;
- 2) in the case of certified capacity market units which were not covered by a capacity agreement for a given delivery period.

### 17.3.2. Bonus calculation method

17.3.2.1. The bonus shall be calculated separately for each capacity market unit whose excess of the capacity obligation performance, determined in accordance with Section 16.2.38, is greater than zero, in accordance with the following formula:

$$P_r = \frac{1}{1 + S_{VAT}} \cdot S_{kz} \cdot \frac{\sum_{z=1}^{z=j} \max\{0, (WOM_{P_z} - ROM_{wyk_z})\}}{\sum_{z=1}^{z=j} \sum_{n=1}^{n=m} \max\{0, WOM_{P_{zn}} - ROM_{wyk_{zn}}\}}$$

where:

- $P_r$  – means the net bonus amount due to the capacity market unit, expressed in PLN;
- $S_{VAT}$  – means the rate of a due value added tax within the meaning of the Value Added Tax Act;
- $S_{kz}$  – means the sum of cash collected for penalties for non-performance of the capacity obligation in the previous delivery year, expressed in PLN;
- $z$  – means subsequent system stress events in the previous delivery year, where  $j$  is the total number of system stress events in the previous delivery year;
- $n$  – means subsequent capacity market units covered by the capacity obligation in the previous delivery year, where  $m$  is the number of all capacity market units covered by the capacity obligation in the previous delivery year;
- $WOM_{P_z}$  – means the value of the excess of the capacity obligation performance of a given capacity market unit in a system stress event  $z$ , referred to in Section 16.2.38, expressed in MW;
- $ROM_{wyk_z}$  – means the value of the performance of an adjusted capacity obligation used to settle the non-performance of the capacity obligation by another capacity market unit as part of the reallocation transaction referred to in Section 12.1.1 (2), in a system stress event  $z$ , expressed in MW;
- $WOM_{P_{zn}}$  – means the value of the excess of the capacity obligation performance of  $n$ -th capacity market unit in a system stress event  $z$ , referred to in Section 16.2.38, expressed in MW;
- $ROM_{wyk_{zn}}$  – means the value of the performance of an adjusted capacity obligation by  $n$ -th capacity market unit used to settle the non-performance of the capacity obligation by another capacity market unit as part of the reallocation transaction referred to in Section 12.1.1 (2), in a system stress event  $z$ , expressed in MW.

17.3.2.2. In a given settlement period, the bonus calculated for the capacity provider for one capacity market unit may not exceed the limit calculated in accordance with the following formula:

$$L_p = \frac{1}{1 + S_{VAT}} \cdot \sum_{z=1}^{z=j} \{ \max[0, (WOM_{Pz} - ROM_{wykz})] \cdot 2 \cdot SK_n \}$$

where:

- $L_p$  – means the highest acceptable bonus in a given delivery year, expressed in PLN;
- $S_{VAT}$  – means the rate of a due value added tax within the meaning of the Value Added Tax Act;
- $z$  – means subsequent system stress events in the previous delivery year, where  $j$  is the total number of system stress events in the previous delivery year;
- $WOM_{Pz}$  – means the value of the excess of the capacity obligation performance of a given capacity market unit in a system stress event  $z$ , referred to in Section 16.2.38, expressed in MW;
- $ROM_{wykz}$  – means the value of the performance of an adjusted capacity obligation used to settle the non-performance of the capacity obligation by another capacity market unit as part of the reallocation transaction referred to in Section 12.1.1 (2), in a system stress event  $z$ , expressed in MW;
- $SK_n$  – means the unit penalty rate in the delivery year  $n$ , calculated as defined in the Regulation referred to in Article 68 (2) of the Act, expressed in PLN/MW/h.

- 17.3.2.3. The TSO shall determine the amount of the bonus referred to in Section 17.3.2.1 on the basis of the most up-to-date metering/billing data submitted to the capacity provider in accordance with Section 16.9.2 and 16.9.5.
- 17.3.2.4. If a system stress event occurs in the last quarter of the delivery year for which the bonus is due, after the lapse of the time limit referred to in Section 17.2.1.3 (2), with respect to the last system stress event, the TSO shall re-verify the amount of the bonus referred to in Section 17.3.2.1.
- 17.3.2.5. If the amount of the bonus, verified in accordance with Section 17.3.2.4, differs from the amount indicated in the information submitted to the capacity provider, as referred to in Article 66 (6) of the Act, the TSO shall make the corrected information referred to in Article 66 (6) of the Act available to the capacity provider within 5 working days from the date referred to in Section 17.2.1.3 (2).

### 17.3.3. Circulation of accounting documents

- 17.3.3.1. The accounting document that provides a basis for payment of bonus shall be an invoice.
- 17.3.3.2. The invoice referred to in Section 17.3.3.1 shall be issued by the capacity provider within 7 calendar days:
  - 1) after receipt of the information referred to in Article 66 (6) of the Act from the TSO – if no system stress event has occurred in the last quarter of the delivery year for which the bonus is due, or
  - 2) after the expiry of the time limit for correcting the information referred to in Section 17.3.2.5 – in other cases.
- 17.3.3.3. The invoice shall be issued in compliance with the Value Added Tax Act.
- 17.3.3.4. The invoice referred to in Section 17.3.3.1 shall be sent to the TSO in accordance with the conditions specified in Section 17.1.2.1 – 17.1.2.3.

- 17.3.3.5. If the invoice referred to in Section 17.3.3.1 is issued incorrectly, the TSO shall immediately request the capacity provider to issue a correcting invoice or a correcting note and shall submit it to the capacity provider.
- 17.3.3.6. The correcting invoice referred to in Section 17.3.3.5 shall be issued by the capacity provider within 3 working days following the receipt from the TSO of the request referred to in Section 17.3.3.5 and sends it to the TSO in accordance with the conditions specified in Section 17.1.2.1 – 17.1.2.3.
- 17.3.3.7. The correcting invoice or correcting note referred to in Section 17.3.3.5 shall be issued in compliance with the Value Added Tax Act.

17.3.4. **Bonus payment rules**

- 17.3.4.1. The entity responsible for bonus payment shall be the settlement body referred to in Article 61 (2) of the Capacity Market Act.
- 17.3.4.2. The capacity provider shall issue to the TSO the invoice referred to in Section 17.3.3.1, or the correcting invoice referred to in Section 17.3.3.5 with the payment date of 21 calendar days from the date of its receipt by the TSO.
- 17.3.4.3. TSO, within 10 working days from the receipt of a correctly issued invoice from the capacity provider as referred to in Section 17.3.3.1, or the correcting invoice referred to in Section 17.3.3.5 shall prepare and provide the settlement body with a written order containing, with respect to each capacity market unit to which the bonus is due in a given settlement period, at least:
- 1) the capacity provider's name,
  - 2) capacity market unit code,
  - 3) number of the VAT invoice issued by the capacity provider,
  - 4) VAT invoice payment period,
  - 5) payment description,
  - 6) settlement period,
  - 7) net amount and gross amount due to the capacity provider,
  - 8) the bank account number to which the bonus shall be paid.

## **18. Rules of cooperation with DSOs**

### **18.1. General rules of cooperation**

18.1.1. The DSO in whose zone physical units are connected or planned to be connected shall cooperate with the TSO in the process of:

- 1) certification – through direct participation;
- 2) carrying out the demand side response performance test – by providing metering data;
- 3) verification of capacity obligation performance and the settlement process – by providing metering data;
- 4) substitution of planned demand side response units – through participation in the verification of data and information relating to physical demand side response units which are substituting a planned demand side response unit;
- 5) providing information on constraints in the DSO's grid and the TSO's instructions issued in connection with them, restricting the capability of capacity delivery to the PPS by physical units forming part of capacity market units.
- 6) verifying the compliance with the requirements referred to in Sections 14.1.2.3 (1), 14.2.3 (2), 14.2.21 (3) - by submission of metering data and confirming the completeness of the list of metering points assigned to physical units forming part of given capacity market unit;
- 7) submission of the information referred to in Section 14.4.2 (4) for the purpose of verification of the capacity change application.

18.1.2. The DSO shall cooperate with the TSO through the DSOc to whose grid it is connected.

18.1.3. Communication between the TSO and the DSOc shall be effected through the register unless the Rules provide otherwise.

18.1.4. Detailed rules of the DSOc's access to the register and the manner of register management shall be provided by the TSO directly to the DSOc.

18.1.5. Detailed rules for information exchange between the DSO and the DSOc for the purposes of cooperation with the TSO in the processes referred to in Section 18.1.1 shall be agreed directly between the relevant DSOc and DSO, provided, however, that:

- 1) the time allowed for the DSO to take a position in case it is necessary to verify, supplement or confirm information provided by the DSOc may not be more than 10 calendar days from the date of notice from the relevant DSOc, and
- 2) the time allowed for the DSO to take a position in case it is necessary to respond to objections concerning metering/billing data or to supplement information provided by the TSO may not be more than 3 working days from the date of notice from the relevant DSOc, and
- 3) the time for the provision by the DSO of metering/billing data to the DSOc must make it possible to meet the deadlines for the provision of metering/billing data to the TSO, specified in the Rules,

and the DSO's failure to provide information on time shall be a basis for negative verification by the DSOc.

### **18.2. Cooperation as part of general certification**

18.2.1. An application for entry of a physical unit in the register, in which the applicant has indicated metering points in the DSO's grid shall be made available through the register to the relevant DSOc with regard to:

- 1) designation and address of the physical unit,
- 2) designation and address of the owner of the physical unit,
- 3) technical parameters of the unit,

- 4) list of metering points situated in the distribution grid of the DSOc concerned and in the distribution grids of the DSOs cooperating with the TSO through that DSOc.
- 18.2.2. Using the register, the DSOc shall perform the verification referred to in Section 6.3.3.3 within 31 calendar days from the commencement date of a given general certification, having previously acquired information from the relevant DSOs.
- 18.2.3. The correctness of data and information provided in the verification process referred to in Section 6.3.3.3 shall be the responsibility of the relevant DSOs with regard to information concerning their grids and units connected to them.
- 18.2.4. Where a physical unit is connected or planned to be connected to the grid:
- 1) of more than one DSOc,
  - 2) the DSOc and the DSOs cooperating with the TSO through another DSOc, or
  - 3) to the grid of more than one DSOs cooperating with the TSO through more than one DSOc,
- every relevant DSOc shall independently carry out the verification referred to in Section 18.2.2.
- 18.2.5. As a result of the verification referred to in Section 18.2.2, the DSOc shall:
- 1) confirm the correctness and completeness of data relating to a given physical unit, as specified in Section 6.3.3.3 (1) and (2), or shall indicate incorrectly entered or missing data,
  - 2) specify, to the best of its knowledge, the connected load for all PPEs of a given physical unit, relating to the DSOc's grid and the grids of the DSOs cooperating with the TSO through the DSOc concerned,
  - 3) optionally, it shall provide additional information that can support the TSO in the decision-making process for entering the physical unit into the register.
- 18.2.6. If the DSOc confirms the correctness and completeness of data relating to a given physical unit, the TSO shall consider the application for entry in the register as complete with regard to the part subject to an opinion by the DSOc concerned and the DSOs cooperating with the TSO through the DSOc.
- 18.2.7. If incorrect or incomplete data is given by the DSOc, in accordance with Section 18.2.5 (1), the information provided by the DSOc shall provide a basis for the TSO to request the applicant to complete or correct the application, and any errors or gaps indicated by the DSOc shall constitute a defect of the application.
- 18.2.8. Having received a completed or corrected application through the register, the DSOc shall, within 5 working days, submit to the TSO, through the register, the result of a repeat verification.
- 18.2.9. If the DSOc concludes, as a result of the verification referred to in Section 18.2.8, that:
- 1) the application for entry in the register has been completed or corrected correctly – the TSO shall declare the application for entry in the register complete and correct with regard to the part subject to opinion by the DSOc, or
  - 2) the application for entry in the register has been completed incorrectly or has not been corrected – the TSO shall declare the application for entry in the register incomplete or incorrect, as the case may be.
- 18.2.10. When considering an application for entry in the register for units that make the declaration referred to in Section 6.3.2.1 (9) (a), the relevant DSOc may additionally verify the compliance of metering/billing systems in the delivery year with the technical requirements referred to in Section 21, necessary for the correct management of settlement operations relating to the metering points indicated for a given physical unit.
- 18.2.11. The verification referred to in Section 18.2.10, if performed and successfully completed, shall be treated at the stage of main certification as confirmation of meeting the requirements

referred to in Section 7.4.2.1 (4) or 5) or Section 7.4.2.12 (5) or 6) for the metering points of a given physical unit falling within the responsibility of a given DSOc.

### **18.3. Cooperation related to the substitution of planned demand side response units**

- 18.3.1. An application for substitution of a planned demand side response unit with physical demand side response units shall be made available through the register to the relevant DSOc with regard to the physical units for which metering points have been indicated in the distribution grid of a given DSOc or in distribution grids of the DSOs cooperating with the TSO through a given DSOc, in the same manner as for the general certification process.
- 18.3.2. The DSOcs shall, with the use of the register, verify the application for substitution of a planned demand side response unit with physical demand side response units, within their scope, within 14 calendar days of its submission.
- 18.3.3. As part of the verification referred to in Section 18.3.2, the DSOc shall verify:
  - 1) data and characteristics relating to physical demand side response units, as for Section 6.3.3.3, and
  - 2) compliance of metering/billing systems at metering points in the DSOc's grid and in the grids of DSOs cooperating through the DSOc, in the delivery year, with the technical requirements referred to in Section 21, necessary for settlement operations to be performed correctly.
- 18.3.4. As a result of the verification referred to in Section 18.3.2, the DSOc shall:
  - 1) confirm the correctness and completeness of data relating to a given physical unit, as specified in Section 6.3.3.3 (1) and (2), or shall indicate incorrectly entered or missing data;
  - 2) confirm compliance of metering/billing systems at PPEs in the DSOc's grid and in the grids of DSOs cooperating through the DSOc, in the delivery year, with the technical requirements referred to in Section 21, necessary for the correct management of settlement operations, or shall report non-compliance with the requirements;
  - 3) specify, to the best of its knowledge, the connected load for all metering points of a given physical unit, relating to the DSOc's grid and the grids of the DSOs cooperating with the TSO through the DSOc concerned;
  - 4) optionally, the DSOs shall provide additional information that can support the TSO in the decision-making process for substitution of a planned demand side response unit.
- 18.3.5. If the DSOc confirms the correctness and completeness of data relating to a given group of physical units, the TSO shall consider the application for substitution of a planned demand side response unit complete with regard to the part subject to an opinion by the DSOc concerned.
- 18.3.6. If incorrect or incomplete data is given by the DSOc, in accordance with Section 18.3.4 (1) or (2), the information provided by the DSOc shall provide a basis for the TSO to request the applicant to complete or correct the application, and any errors or gaps indicated by the DSOc shall constitute a defect of the application.
- 18.3.7. Having received a completed or corrected application, the DSOc shall, within 5 working days, submit to the TSO, through the register, the result of a repeat verification.
- 18.3.8. If the DSOc determines, as a result of the repeat verification referred to in Section 18.3.7, that:
  - 1) the application for substitution of a planned demand side response unit has been completed or corrected correctly – the TSO shall consider the application for entry in the register complete and correct with regard to the part subject to opinion by the DSOc, or
  - 2) the application for substitution of a planned demand side response unit has been completed incorrectly or has not been corrected – the TSO shall consider the application incomplete or incorrect, as the case may be.

#### **18.4. Provision of metering data for the purposes of verification of capacity obligation performance, the test system stress event and the settlement process**

- 18.4.1. The basis for settlement in respect of the performance of the capacity obligation of a capacity market unit connected to the distribution grid shall be metering/billing data provided to the TSO by the relevant DSOc within whose territory physical units forming part of the capacity market unit are located. The data provided shall include:
- 1) metering/billing data acquired from all metering points in the distribution grid specified for a given physical unit in the general certification process,
  - 2) metering data concerning the amount of electricity measured at the terminals of each generator included in the physical unit actively participating in the balancing of the NPS as part of the central balancing mechanism referred to in Section 16.2.22.
- 18.4.2. Metering/billing data relating to the volume of electricity delivered for each metering point shall be acquired and provided to the TSO with an hourly resolution for all capacity market units certified for a given delivery year. The provision of metering/billing data shall start and end after receipt by the DSOc of relevant messages from the TSO in the WIRE system, containing the start or end date relating to individual energy consumption points.
- 18.4.3. Metering/billing data shall be provided to the TSO by the DSOc on a daily basis.
- 18.4.4. Metering/billing data shall be provided by the DSOc to the TSO on a daily basis, subject to Section 18.1.5 (3).
- 18.4.5. DSOs shall make metering/billing data available free of charge to the TSO for the purposes of verification of performance of the capacity obligation and the settlement process.
- 18.4.6. DSOs shall make metering/billing data available free of charge to DSOcs for the purposes of verification of performance of the capacity obligation and the settlement process.
- 18.4.7. The DSOc shall identify the capacity market units covered by the capacity obligation with the use of the register.
- 18.4.8. Where the capacity market unit is connected to more than one DSOc, each DSOc shall send metering/billing data for metering points located in its distribution grid and for metering points in the distribution grids of the DSOs cooperating with the TSO through that DSOc.
- 18.4.9. The DSOc shall provide hourly metering/billing data through the WIRE system on the terms set forth in IRiESP. The data shall be provided for each metering point, separately for electricity taken from the distribution grid and fed into the distribution grid, with an accuracy of 1 kWh.
- 18.4.10. Metering/billing data shall be provided in the preliminary mode and the basic mode.
- 18.4.11. In the preliminary mode, the DSOc shall provide the TSO with hourly data for day d from day+1 to day d+4.
- 18.4.12. After the end of month m, the DSOc shall carry out a repeat verification of metering/billing data provided to the TSO in the preliminary mode for month m and, if necessary, shall provide a verified version of the data.
- 18.4.13. In the basic mode, the DSOc shall provide the TSO with metering/billing data for month m from the 1<sup>st</sup> to the 5<sup>th</sup> calendar day of month m+1.
- 18.4.14. After the end of month m+1, the DSOc shall carry out a repeat verification of metering/billing data provided to the TSO in the basic mode for month m and, if necessary, shall provide a verified version of the data (additional mode).
- 18.4.15. In the additional mode, the DSOc shall provide the TSO with metering/billing data for month m from the 1<sup>st</sup> to the 5<sup>th</sup> calendar day of month m+2.
- 18.4.16. If metering/billing data is not provided by the DSOc in the basic mode referred to in Section 18.4.13 or the additional mode referred to in Section 18.4.15, the latest data referred to in Section 18.4.11 or in Section 18.4.13, respectively, shall be used for settlement purposes.

- 18.4.17. In the case when, in accordance with Section 16.9.6 (3), the capacity provider raises objections to the metering/billing data made available in accordance with Section 16.9.5, the TSO shall submit the objections raised to the relevant DSOc, within 2 working days using e-mail or in the manner agreed between the TSO and the relevant DSOc.
- 18.4.18. An objection raised shall be considered by the DSOc in coordination with the relevant DSO through repeated verification of metering/billing data for the month  $m$ , provided in the basic mode and the transfer of any corrected metering/billing data to the TSO by the 5th calendar day of the month  $m+3$ .

#### **18.5. Provision of metering data for the purposes of the demand side response performance test**

- 18.5.1. If technically possible, the DSOcs shall furnish the TSO with metering/billing data relating to physical demand side response units forming part of the demand side response capacity market unit for which the demand side response performance test is carried out, in the manner and on the terms described in Section 18.4.
- 18.5.2. If metering/billing data relating to physical demand side response units forming part of the demand side response capacity market unit for which the demand side response performance test is carried out is not provided in the manner and on the terms described in Section 18.4, the DSOcs shall make relevant data available at the TSO's request, in the form agreed on a working basis between the TSO and the DSOc concerned, however not later than within 5 working days after the request for making the metering/billing data available.
- 18.5.3. DSOs shall make metering/billing data available free of charge to the TSO for the purposes of the demand side response performance test.
- 18.5.4. DSOs shall make metering/billing data available free of charge to the TSO for the purposes of the demand side response performance test.

#### **18.6. Provision of information on grid congestions and the TSO's instructions**

- 18.6.1. The DSOs shall provide the TSO with information on congestions in the DSOs' grids and the TSO's instructions issued in connection with them, restricting the capability of physical units forming part of capacity market units to deliver capacity to the PPS, through relevant DSOcs.
- 18.6.2. The information referred to in Section 18.6.1 shall be provided electronically through the register or with the use of other ICT systems.
- 18.6.3. The information referred to in Section 18.6.1 shall be provided by relevant DSOcs:
- 1) for the purpose of verification of system stress events and test system stress events, no later than the 5<sup>th</sup> calendar day of the month following the month to which they relate;
  - 2) for the purpose of publication of the information referred to in Section 16.3.1.1 (3):
    - a) for days from the day  $d+1$  to  $d+10$  – with an hourly resolution, at least once every 7 calendar days, where  $d$  is the date of submission of information;
    - b) for days from the day  $d+11$  to  $y+5$  – as the forecast average value in respective weeks, at least once a month, where  $d$  is the date of submission of information,  $y$  is the year in which the information is provided.
- 18.6.4. For the purposes of identification of system stress events and test system stress events by the DSOs, the TSO shall provide the relevant DSOcs with information on the announcement thereof. The information shall be provided by the DSOc to relevant DSOs if they relate to units situated in their grids.
- 18.6.5. The detailed terms of cooperation relating to the exchange of the information referred to in Section 18.6.1 shall be agreed between the TSO and the relevant DSOcs.

**18.7. Cooperation for the purpose of verification of the declaration confirming the delivery of capacity to the system by the capacity market unit in the process of monitoring the capacity agreements**

- 18.7.1. Where technically feasible, the DSOc shall provide the TSO with the metering/billing data concerning the physical generating units included in the generating capacity market units, for which the declaration confirming the delivery of capacity to the system is verified as referred to in Section 14.1.2.3 (1), 14.2.3 (2), 14.2.21 (3) in the mode and on the terms and conditions described in Section 18.4.
- 18.7.2. Where the metering/billing data concerning the physical generating units forming part of the generating capacity market units, for which the declaration confirming the delivery of capacity to the system is verified as referred to in Section 14.1.2.3 (1), 14.2.3 (2), 14.2.21 (3) are not provided in the manner and on the terms described in Section 18.4, the DSOc shall make relevant data available at the TSO's request, in the form agreed on a working basis between the TSO and the DSOs concerned, however not later than within 5 working days after the request for making the metering/billing data available.
- 18.7.3. The DSO shall provide the metering/billing data to the TSO free of charge for the purpose of verification of the declaration confirming the delivery of capacity to the system referred to in Section 14.1.2.3 (1), 14.2.3 (2), 14.2.21 (3).
- 18.7.4. The DSOs shall provide the DSOc free of charge with the metering/billing data for the purpose of verification of the declaration confirming the delivery of capacity to the system referred to in Section 14.1.2.3 (1), 14.2.3 (2), 14.2.21 (3).
- 18.7.5. The DSOs shall, at the TSO's request, confirm the completeness of the list of metering points assigned to the planned physical generating units included in the capacity market units to which the declaration referred to in section 14.1.2.3 (1), 14.2.3 (2) or 14.2.21 (3) applies, free of charge, in the form agreed on a working basis between the TSO and a given DSOc, but no later than within 5 working days following the receipt of the request for their verification from the TSO.

**18.8. Submission of information on the volume of changed net maximum capacity of a physical generating unit for the purpose of verification of the capacity change application**

- 18.8.1. The capacity change application submitted through the register or excerpt from this application – with respect to the physical generating unit connected or planned to be connected to the distribution grid of the DSOc or the distribution grid of the DSOs cooperating with the TSO through the DSOc, shall be made available to the relevant DSOc in the form agreed upon on a working basis between the TSO and the given DSOc.
- 18.8.2. The DSOc shall provide the TSO with information on the change in the available capacity of a physical generating unit connected to the grid of that DSOc or the grid of DSOs cooperating with the TSO through a given DSOc within 10 working days.

## 19. Complaint procedure

- 19.1. The applicant or the capacity provider, as the case may be, may file a complaint relating to an entry made in the register by the TSO, concerning:
- 1) refusal to enter a physical unit into the register – within 4 working days of the entry date;
  - 2) a register entry having been made with data differing from the content of the application for entry in the register – within 4 working days of the entry date;
  - 3) refusal to enter a physical unit into the register – within 4 working days of the entry date;
  - 4) contents of the certificate issued – within 4 working days of the entry date;
  - 5) refusal to substitute a planned demand side response unit with a planned demand side response unit or units – within 4 working days of the entry date;
  - 6) a register entry referred to in Section 14.3.14– within 5 working days of the entry date;
  - 7) objection against a transaction in the secondary market in accordance with Section 12.1.8 – within 2 working days of the entry date;
  - 8) objections to the information referred to in Section 16.6.3 – within 4 working days of the entry date;
  - 9) negative verification of the request for reimbursement of reasonable costs referred to in Section 16.8.2.9 – within 4 working days from the date of making the entry;
  - 10) refusal to terminate the terminated agreement referred to in Section 14.5.1 – within 4 working days of the entry date;
  - 11) negative result of the demonstration referred to in Section 16.7.10 (2) – within 5 working days of the entry date;
  - 12) negative result of the demand side response performance test referred to in Section 15.21 (2) – within 4 working days of the entry date.
- 19.2. When filing a complaint, the applicant or the capacity provider shall present its position and any additional information, explanations and documents, through the register.
- 19.3. The TSO shall consider a complaint within the following time limits:
- 1) in the cases referred to in Section 19.1 (1) – (6), (8), (10)– 7 calendar days;
  - 2) in the cases referred to in Section 19.1 (7), (12) – 5 calendar days;
  - 3) in the case referred in section 19.1 (11) – 7 calendar days, provided that if the capacity provider raises reservations concerning the correctness of metering and billing data as referred to in Section 16.9.6, on the basis of which the demonstration was verified and the corrected metering/billing data referred to in Section 16.9.8 are published later than the date referred to in Section 19.1 (11), the complaint shall be examined within the time limit referred to in Section 16.7.13.
- 19.4. If the complaint is accepted, the TSO shall make an entry in the register in line with the applicant's or capacity provider's position and shall inform them of the positive decision by notice sent automatically to the register user's email address.
- 19.5. If the complaint is rejected, the TSO shall refuse to take the complaint into account, informing the applicant or the capacity provider thereof through an entry in the register. In addition, the TSO shall send a notice of the complaint decision by email. If the complaint is refused, the TSO shall state the reasons in the information on its decision.

19.6.

## **20. Changes**

### **20.1. General rules**

20.1.1. This chapter concerns:

- 1) ownership changes,
- 2) changes in technical parameters,
- 3) changes in the configuration of metering points,
- 4) changes in the names of entities or contact details,
- 5) changes in the numbering of metering points,

with regard to physical units for which a representation of intent to participate in a capacity auction has been made in the application for entry in the register and physical units that intend to participate in the secondary market for a given delivery year, and

- 6) changes in data concerning capacity providers.

20.1.2. Physical units that participate only in general certification in a given year shall submit information on a change in data contained in the application for entry in the register in the next general certification.

20.1.3. Information on the changes referred to in Section 20.1.1 (1) – (4) and (6) shall be provided by the physical unit owner, the entity authorised by the owner or the capacity provider:

- 1) with the use of the register or to the email address given by the TSO if the register does not provide relevant functionalities;
- 2) immediately after the register entry is obtained – for changes arising in the course of general certification;
- 3) within 7 calendar days of becoming aware of the change – for changes arising after the register entry is obtained.

20.1.4. Information on a change in the numbering of metering points, referred to in Section 20.1.1 (5) shall be submitted in accordance with Section 20.5.

20.1.5. The register user authorised to provide information on the occurrence of changes referred to in Section 20.1.1 (1) - (4) and (6), shall be a person meeting the requirements specified in Section 4.1.6.

### **20.2. Change of the physical unit owner**

20.2.1. Information on a change of the physical unit owner shall be provided by:

- 1) the new physical unit owner – in the case of changes arising before the commencement of certification;
- 2) the capacity provider – in the case of changes arising after the commencement of certification.

20.2.2. The information on the change of owner referred to in Section 20.2.1 (1) shall contain the information referred to in Section 6.3.2.1 (1) and (2) and the date of change of the owner of the physical unit.

20.2.3. The information on the change of owner referred to in Section 20.2.1 (2) shall contain:

- 1) the information referred to in Section 6.3.2.1 (1) and (2) and the date of change of the owner of the physical unit.
- 2) documents confirming the authorisation to dispose of physical units, submitted in accordance with Section 4.1.9 2) – if the capacity provider is no longer an owner of the physical units forming part of the capacity market unit;
- 3) authorisation of the register user to represent the capacity provider, i.e. power of attorney submitted in accordance with Section 4.1.6 – if the register user is not a capacity provider or is not a person authorised for sole representation of the capacity

provider under rules of general application or failed to demonstrate its authorisation in accordance with section 4.1.19.

- 20.2.4. Submission of the documents referred to in Section 20.2.2 and Section 20.2.3 shall be confirmed by an entry in the register.
- 20.2.5. Within 14 calendar days of receipt of the information referred to in Section 20.2.2 or Section 20.2.3, the TSO shall verify the content thereof for completeness and consistency of the data provided with the register data of the individual entities.
- 20.2.6. A successful verification of the information referred to in Section 20.2.2 and Section 20.2.3, shall be confirmed by the information in the register.
- 20.2.7. If documents are found to be incomplete or doubts arise as to their content, the TSO shall request the owner or the capacity provider, through the register, to supplement them, setting a time limit of not less than 3 working days.
- 20.2.8. If the TSO, having carried out a repeat verification of the documents, concludes that:
  - 1) the documents submitted are correct – the TSO shall confirm the change of ownership, or
  - 2) the documents submitted are not correct – the TSO shall not confirm the change of ownership.
- 20.2.9. A change of the physical unit owner's data shall be confirmed by an entry in the register.

### **20.3. Changes in parameters of a physical unit**

- 20.3.1. Information on a change in parameters of a physical unit shall contain at least:
  - 1) unit name;
  - 2) unit code assigned by the register;
  - 3) names of technical parameters of the physical unit the values of which have changed;
  - 4) new technical parameters of the physical unit.
- 20.3.2. Information on a change in parameters of a physical unit shall be provided by:
  - 1) the physical unit owner – in the case of changes arising before the commencement of main certification;
  - 2) the capacity provider – in the case of changes arising after the commencement of main certification.
- 20.3.3. Submission by the physical unit owner or by the capacity provider of the documents referred to in Section 20.3.1 shall be confirmed by an entry in the register.
- 20.3.4. Within 14 calendar days of receipt of the documents referred to in Section 20.3.1, the TSO shall verify their content for completeness.
- 20.3.5. A successful verification of the information referred to in Section 20.3.1, shall be confirmed by the information in the register.
- 20.3.6. If the documents are found to be incomplete or doubts arise as to their content, the TSO shall request, through the register, that they be supplemented, setting a time limit of not less than 3 working days.
- 20.3.7. If the TSO, having carried out a repeat verification of the documents, concludes that:
  - 1) the documents submitted are correct – the TSO shall confirm the change of parameters of the physical unit, or
  - 2) the documents submitted are incorrect – the TSO shall not confirm the change of parameters of the physical unit.
- 20.3.8. A change in the parameters of a physical unit shall be confirmed by an entry in the register, provided, however, that such change shall not affect the rights and obligations arising from a

capacity agreement concluded or from a certificate issued for the capacity market unit, in particular it shall not affect the de-rating factor and the net maximum capacity.

#### **20.4. Changes in the configuration of metering points**

- 20.4.1. Changes in the configuration of metering points (energy consumption points or delivery points) of a physical unit forming part of a capacity market unit, including in particular the addition or removal of metering points relating to that unit, shall be possible, provided that the condition of completeness of the power supply system of a given physical unit is met and the technical parameters referred to in Section 21 are met by metering systems at metering points.
- 20.4.2. Information on a change in the configuration of metering points shall be provided to the TSO by:
  - 1) the relevant DSOc, or
  - 2) the physical unit owner through the register – in the case of changes arising before the commencement of main certifications, or
  - 3) the capacity provider through the register – in the case of changes arising after the commencement of main certifications.
- 20.4.3. Information on a change in the configuration of metering points of a physical unit forming part of a capacity market unit shall contain at least:
  - 1) unit name;
  - 2) unit code assigned by the register;
  - 3) for physical units connected to the distribution grid – the information referred to in Section 6.3.2.1 (6);
  - 4) for physical units connected to the transmission grid – the information referred to in Section 6.3.2.1 (7);
- 20.4.4. Having obtained information from a relevant DSOc on a change in the configuration of metering points, the TSO may directly take the changes concerned into account.
- 20.4.5. Submission of the documents referred to in Section 20.4.2 (2) or (3) shall be confirmed by an entry in the register.
- 20.4.6. Having obtained the information referred to in Section 20.4.2 (2) or (3), the TSO, in coordination with the relevant DSOc, shall verify it within 14 calendar days for completeness and compliance of metering systems at metering points with the technical requirements referred to in Section 21.
- 20.4.7. A successful verification of the information referred to in Section 20.4.2 (2) or (3) shall be confirmed by the information in the register.
- 20.4.8. If documents are found to be incomplete or metering systems at metering points fail to meet the technical requirements referred to in Section 21, or doubts arise as to their content, the TSO shall request the physical unit owner or the capacity provider, through the register, to supplement them, setting a time limit of not less than 3 working days.
- 20.4.9. If the TSO, having carried out a repeat verification of the documents, concludes that:
  - 1) the documents submitted are correct and the metering systems at metering points meet the technical requirements referred to in Section 21 – the TSO shall confirm the change in configuration of metering points of a physical unit, or
  - 2) the documents submitted are incorrect or the metering systems at metering points fail to meet the technical requirements referred to in Section 21 – the TSO shall not confirm the change in configuration of metering points of a physical unit.
- 20.4.10. In the case of physical units connected to the transmission grid, the TSO may directly enter into the register a change of information on the delivery points of a physical unit.

20.4.11. A change in the configuration of energy metering points or the delivery point of a physical unit shall be confirmed by an entry in the register.

## **20.5. Change in the numbering of metering points**

20.5.1. Information on a change in the numbering of metering points, referred to in Section 20.1.1 (5) shall:

- 1) be provided to the relevant DSOc, in a manner agreed between the parties, no later than 7 calendar days after the arising of a given change;
- 2) be provided to the TSO, through the register or in other form agreed between the parties, no later than 14 calendar days after the arising of a given change, including the changes referred to in subsection (1).

20.5.2. The changes referred to in Section 20.5.1 shall be taken into account by the TSO and relevant DSOs in configuring the systems used for the transfer of metering/billing data and in the register.

## **20.6. Changes in the data of an entity**

20.6.1. Information on a change in

- 1) the name of a physical unit owner, or
- 2) the registered office of a physical unit owner, or
- 3) contact details of a physical unit owner,  
shall contain, as applicable:
- 4) the new name of the physical unit owner, or
- 5) the new address details of the physical unit owner's registered office, or
- 6) the new contact details of the physical unit owner.

20.6.2. Information on the changes referred to in Section 20.6.1 shall be provided by:

- 1) the physical unit owner – in the case of changes arising before the commencement of main certification;
- 2) the capacity provider – in the case of changes arising after the commencement of main certification.

20.6.3. Submission by the physical unit owner or by the capacity provider of the information referred to in Section 20.6.1 shall be confirmed by an entry in the register.

20.6.4. Within 14 calendar days of receipt of the information referred to in Section 20.6.1, the TSO shall verify the content thereof for completeness and correctness.

20.6.5. A successful verification of the information referred to in Section 20.6.1, shall be confirmed by the information in the register.

20.6.6. If the documents are found to be incomplete or doubts arise as to their content, the TSO shall request, through the register, that they be supplemented, setting a time limit of not less than 3 working days.

20.6.7. If the TSO, having carried out a repeat verification of the documents, concludes that:

- 1) the documents submitted are correct – the TSO shall confirm the change of the information referred to in Section 20.6.1, or
- 2) the documents submitted are incorrect – the TSO shall not confirm the change of the information referred to in Section 20.6.1.

20.6.8. A change of the physical unit owner's data shall be confirmed by an entry in the register.

20.6.9. Information on a change in:

- 1) the name of the capacity provider, or
  - 2) the registered office of the capacity provider, or
  - 3) contact details of the capacity provider, or
  - 4) the capacity provider's account number referred to in Section 7.4.2.1 (2) (j),  
shall contain, as applicable:
    - 5) the capacity provider's new name, or
    - 6) the new address details of the capacity provider's registered office, or
    - 7) the new contact details of the capacity provider, or
    - 8) the capacity provider's new bank account number.
- 20.6.10. Information on the changes referred to in Section 20.6.9 shall be provided by the capacity provider.
- 20.6.11. Submission by the capacity provider of the information referred to in Section 20.6.9 shall be confirmed by an entry in the register.
- 20.6.12. Within 14 calendar days of receipt of the information referred to in Section 20.6.9, the TSO shall verify the content thereof for completeness and correctness.
- 20.6.13. A successful verification of the information referred to in Section 20.6.9, shall be confirmed by the information in the register.
- 20.6.14. If the documents are found to be incomplete or doubts arise as to their content, the TSO shall request, through the register, that they be supplemented, setting a time limit of not less than 3 working days.
- 20.6.15. If the TSO, having carried out a repeat verification of the documents, concludes that:
  - 1) the documents submitted are correct – the TSO shall confirm the change of the information referred to in Section 20.6.9, or
  - 2) the documents submitted are incorrect – the TSO shall not confirm the change of the information referred to in Section 20.6.9.
- 20.6.16. A change in the data referred to in Section 20.6.9 shall be confirmed by an entry in the register.

## **21. Technical information necessary for the correct management of settlement operations**

- 21.1. In order to enable the obligations referred to in Article 19 (1) (2) to be fulfilled, the TSO and the relevant DSOs within whose territory the physical unit is located shall issue a confirmation of compliance of all metering/billing systems of physical units forming part of a capacity market unit with technical requirements necessary for the correct management of settlement operations.
- 21.2. The confirmations referred to in Section 21.1 shall be issued for a given physical unit and its metering points.
- 21.3. The confirmations referred to in Section 21.1 for metering points in the transmission grid shall be issued by the TSO.
- 21.4. The confirmations referred to in Section 21.1 for metering points in the DSO's grid shall be issued by the relevant DSO.
- 21.5. The confirmations referred to in Section 21.1 for metering points in the DSO's grid shall be issued by the DSO through which the DSO coordinates with the TSO.
- 21.6. Compliance with the requirements referred to in Section 7.4.2.1 (4) and (5) or in Section 7.4.2.12 (5) and (6), respectively, shall require the confirmations referred to in Section 21.1 to be obtained for all physical units forming part of a given capacity market unit, save that where a given physical unit has metering points:
  - 1) only in the transmission grid – confirmation shall be required only from the TSO,
  - 2) only in the distribution grid – confirmation shall be required from all the relevant DSOs.
  - 3) in the transmission grid and in a distribution grid – confirmation shall be required from the TSO and from all the relevant DSOs.
- 21.7. The confirmations referred to in Section 21.1 may be issued in the course of general certification in accordance with Section 6.3.3.4.
- 21.8. The confirmations referred to in Section 21.1 shall be issued by the TSO and DSOs through the register or in the form of a separate document.
- 21.9. In the case where the confirmation referred to in Section 21.1 has not been issued for metering points of a physical unit in the transmission grid in accordance with Section 21.7, the TSO shall issue such confirmations in accordance with the provisions of Section 7.4.6.
- 21.10. In the case where the confirmation referred to in Section 21.1 has not been issued for metering points of a physical unit in a distribution grid in accordance with Section 21.7, the entity that will be the capacity provider to the capacity market unit that will comprise a given physical unit, shall be required to request the relevant DSO no later than 30 calendar days before the commencement date of main certification.
- 21.11. If the request referred to in Section 21.10 is made, the DSO shall issue a confirmation no later than one day before the commencement of a given main certification.
- 21.12. If the confirmation referred to in Section 21.1 is issued by the DSO in a form other than through the register, the DSO shall send to the TSO a copy of the confirmation issued.
- 21.13. The issuing of the confirmation referred to in Section 21.1 by the TSO shall operate as the TSO's representation that:
  - 1) the metering points specified in general certification for a given physical unit cover the complete power supply system in the transmission grid;
  - 2) the TSO's metering/billing systems at all metering points in the transmission grid meet or will meet, starting from the delivery year, the technical requirements set forth in IRiESP, and enable or will enable, starting from the delivery year, the remote acquisition of hourly metering/billing data;
  - 3) with regard to the physical unit owner's metering/billing systems, the owner of the unit has represented to the TSO that metering/billing systems at all metering points in the transmission grid meet or will meet, starting from the delivery year, the technical

requirements set forth in IRiESP, and enable or will enable, starting from the delivery year, the remote acquisition of hourly metering/billing data;

- 4) in the case of physical generating units – at least metering points in generator output circuits relating to a given physical unit have or will have, starting from the delivery year, separate codes of delivery points assigned to them;
- 5) any future changes in the grid shall not affect compliance with the requirements referred to in subsections (2) – (4) until the end of the delivery period and at least until the end of the period during which the capacity market unit comprising the physical unit concerned is covered by the capacity obligation;
- 6) any future changes in the grid shall be represented accordingly in the TSO's systems so that the condition of covering the complete power supply system of a given physical unit with metering points is met, including compliance with the requirements referred to in subsections (2) – (4).

21.14. The issuing of the confirmation referred to in Section 21.1 by the DSOc shall operate as the DSOc's representation that:

- 1) the metering points specified in general certification for a given physical unit cover the complete power supply system in the distribution grid of the DSOc and the DSOs cooperating with the TSO through the DSOc;
- 2) the DSOc's metering/billing systems at all metering points in the DSO's distribution grid meet or will meet, starting from the delivery year, the technical requirements set forth in the relevant IRiESD, and enable or will enable, starting from the delivery year, the acquisition of hourly metering/billing data and its delivery to the TSO in the manner and at the times set forth in Section 18;
- 3) with regard to the DSO's metering/billing systems, the relevant DSO has represented to the DSOc that the DSO's metering/billing systems at all metering points in the DSO's distribution grid meet or will meet, starting from the delivery year, the technical requirements set forth in relevant IRiESD, and enable or will enable, starting from the delivery year, the acquisition of hourly metering/billing data and its delivery to the TSO in the manner and at the times set forth in Section 18;
- 4) with regard to the physical unit owner's metering/billing systems, the unit owner has represented to the DSOc that the unit owner's metering/billing systems at all metering points in the DSOc's distribution grid meet or will meet, starting from the delivery year, the technical requirements set forth in relevant IRiESD, and enable or will enable, starting from the delivery year, the acquisition of hourly metering/billing data and its delivery to the TSO in the manner and at the times set forth in Section 18;
- 5) in the case of physical generating units – at least metering points in generator output circuits relating to a given physical unit have or will have, starting from the delivery year, separate codes of energy consumption points assigned to them;
- 6) any future changes in the grid shall not affect compliance with the requirements referred to in subsections (2) – (5) until the end of the delivery period and at least until the end of the period during which the capacity market unit comprising the physical unit concerned is covered by the capacity obligation;
- 7) the DSOc shall inform the TSO of any future changes in the grid, and such changes shall be represented accordingly in the TSO's systems so that the condition of covering the complete power supply system of a given physical unit with metering points is met, including compliance with the requirements referred to in subsections (2) – (5);
- 8) the DSOc agrees to provide the TSO with metering/billing data relating to a given physical unit in the manner and at the times set forth in Section 18.

21.15. The DSOc shall issue a confirmation covering metering points in the DSO's grid on condition that the DSO represents that:

- 1) the metering points specified in general certification for a given physical unit cover the complete power supply system in the DSO's distribution grid;

- 2) the DSO's metering/billing systems at all metering points in the DSO's grid meet or will meet, starting from the delivery year, the technical requirements set forth in the relevant IRiESD, and enable or will enable, starting from the delivery year, the acquisition of hourly metering/billing data and its delivery to the DSOc so as to make it possible to forward the data to the TSO in the manner and at the times set forth in Section 18;
- 3) with regard to the physical unit owner's metering/billing systems, the unit owner has represented to the DSO that the unit owner's metering/billing systems at all metering points in the DSO's distribution grid meet or will meet, starting from the delivery year, the technical requirements set forth in the relevant IRiESD, and enable or will enable, starting from the delivery year, the acquisition of hourly metering/billing data and its delivery to the DSOc so as to make it possible to forward the data to the TSO in the manner and at the times set forth in Section 18;
- 4) in the case of physical generating units – at least metering points in generator output circuits relating to a given physical unit have or will have, starting from the delivery year, separate codes of energy consumption points assigned to them;
- 5) any future changes in the grid shall not affect compliance with the requirements referred to in subsections (2) – (4) until the end of the delivery period and at least until the end of the period during which the capacity market unit comprising the physical unit concerned is covered by the capacity obligation;
- 6) the DSO shall inform the DSOc of any future changes in the grid, and such changes shall be represented accordingly in the DSO's systems so that the condition of covering the complete power supply system of a given physical unit with metering points is met, including compliance with the requirements referred to in subsections (2) – (4);
- 7) the DSO agrees to provide the DSOc with metering/billing data relating to a given physical unit and consents to the forwarding of such data to the TSO in the manner and at the times set forth in Section 18.

21.16. For the purposes of issuing the confirmation referred to in Section 21.1, with regard to metering points in the DSO's grid, the DSO shall make the representation referred to in Section 21.15, in the manner and on the terms agreed between the parties, but in no event later than 14 calendar days after the date of notice from the relevant DSOc.

21.17. The capacity providers' obligation referred to in Section 19 (1) (2) of the Act shall not render it necessary for the TSO or DSO to adjust metering/billing systems so as to meet the requirements prerequisite to issuing the confirmation referred to in Section 21.1.

21.18. Where the adjustment of the TSO's or DSO's metering/billing systems with a view to meeting the requirements prerequisite to issuing the confirmation referred to in Section 21.1 does not arise from the laws and regulations currently in force or from the relevant IRiESP and IRiESDs, the relevant TSO or DSO may, at the physical unit owner's request, adjust the metering/billing systems, save that such adjustment:

- 1) shall require separate arrangements between the physical unit owner and the relevant TSO or DSO;
- 2) shall be settled on terms agreed by the parties, provided that a situation may also arise where adjustment of the metering/billing system will be made at the cost of the physical unit owner.

21.19. Where the physical unit owner's metering/billing systems do not meet the requirements prerequisite to issuing the confirmation referred to in Section 21.1, such confirmation may be issued at the physical unit owner's request if:

- 1) the metering/billing systems are adjusted so as to meet the requirements concerned, or
- 2) the physical unit owner undertakes, on terms agreed with the relevant TSO or DSO, to adjust metering/billing systems prior to the commencement of the delivery period.

## **22. Related documents**

22.1. The documents related to the Rules are:

- 1) the Act;
- 2) the implementing regulations to the Act;
- 3) information published by the President of ERO, listing the services referred to in Article 16 (2) (3) of the Act;
- 4) Regulation (EU) 2019/943 of the European Parliament and of the Council of June 5, 2019 on the internal market for electricity,
- 5) an opinion by the Agency for Cooperation of Energy Regulators (ACER) No. 22/2019 of December 17, 2019, issued pursuant to Article 22 (4) of Regulation (EU) 2019/943 of the European Parliament and of the Council of June 5, 2019 on the internal market for electricity.

22.2. The TSO shall publish on its website the current text or links to current versions of the related documents, such publication being of a strictly informational nature.

### 23. Special regulations

- 23.1. For the purpose of certification for additional auctions for the delivery years 2022–2024 and the first as well as the second quarter of 2025, the provisions of Sections 7.4.2.1 (13), (15), 7.4.2.12 (13), (15), 7.4.3.5 (5) apply only to application for certifications covering one or more generating units that commenced the commercial production on or after July 4, 2019.
- 23.2. The provisions of Sections 10.1.9 and 10.4.5 (5) shall not apply to a planned demand side response unit being a part of a demand side response capacity market unit covered by a capacity agreement concluded before December 31, 2019.
- 23.3. For the purpose of a request for replacement of a planned demand side response unit being a part of a demand side response capacity market unit covered by a capacity agreement concluded before December 31, 2019, the information referred to in Section 7.4.2.12 (13) and (15) are not required.
- 23.4. With reference to the demand side response capacity market units, which include the planned demand side response unit replaced by physical units, comprising only generation units that commenced commercial production before July 4, 2019, and which will not meet the emission limit in the delivery period, the term of the capacity agreements concluded as a result of the main auction for the delivery year 2025 shall be shortened to June 30, 2025. The shortened term of the capacity agreements referred to in the foregoing sentence shall be taken into account by the TSO in the confirmation of the conclusion of the capacity agreement within 7 calendar days after obtaining the entry in the register referred to in Section 10.1.10.
- 23.5. The term of capacity agreements concluded as a result of the main auction for the delivery year 2025, concerning the capacity market units for which no declaration on the planned fulfilment of the emission limit in the delivery year, or on the planned compliance with the emission volume by all the generating units being a part of the physical units forming a given capacity market unit, was submitted in the application for certification, expires on June 30, 2025. The shortened term of the capacity agreements referred to in the foregoing sentence shall be taken into account by the TSO in the announcement of the preliminary results of the main auction for the delivery year 2025.
- 23.6. If the capacity provider, in the course of the certification for the main auction for the delivery year 2025, fails to submit the following within the deadline for submission of the application for certification:
- 1) a declaration on meeting the emission limit in a given delivery period by any of the generating units included in the physical units forming a given capacity market unit, or
  - 2) a declaration on meeting the emission volume by each of the generating units, being a part of the physical units forming a given capacity market unit, not meeting the emission limit determined for the period of the last three calendar years preceding the year in which the certification for the capacity auction takes place – in the case of the generating units that started the commercial production before July 4, 2019, and that will not meet the emission limit in the delivery year, or
  - 3) a declaration on the commencement of the commercial production by all generating units included in the physical units constituting the capacity market unit, before or after July 4, 2019;
- the TSO, prior to issuing the certificate, requests the capacity provider to submit the declaration or declarations referred to in (1) – (3), within a minimum of 3 working days.
- 23.7. Failure of the capacity provider to submit the declaration referred to in Section 23.6 (1) – (2), within the deadline specified in the TSO's request, shall be tantamount to submission by the capacity provider of a declaration on the planned failure to meet the emission limit in the delivery year which the given certification refers to, and a declaration on the planned failure to meet the emission volume.
- 23.8. Failure of the capacity provider to submit the declaration referred to in Section 23.6 (3), within the deadline specified in the TSO's request, shall be tantamount to submission by the capacity provider of a declaration on the commencement of the commercial production by all generating units on July 4, 2019 or later.

- 23.9. The provisions of Section 16 and 17 in the wording given in the Revision Sheet No. RM/Z/2/2020 shall apply from January 1, 2021.
- 23.10. Submission of the authorisation or power of attorney to the TSO, drawn up in accordance with the draft form attached as Appendix 4.1, 4.2 or 4.3, respectively, in the wording provided for in the Revision Sheet No. RM/Z/2/2020, approved by a valid decision of the President of ERO, prior to the effective date of the Revision Sheet No. RM/Z/2/2020, shall not be deemed as formal deficiency.
- 23.11. Capital expenditures referred to in Section 14.1.2.14 with respect to capacity agreements concluded as a result of the main auction for the delivery year:
- 1) 2021 – refer to the period from January 1, 2014 to the date of submission of the SCM declaration;
  - 2) 2022 – refer to the period from January 1, 2017 to the date of submission of the SCM declaration.
- 23.12. The provisions of Section 14.1.3 in the wording given in the Revision Sheet No. RM/Z/2/2020 shall apply from July 1, 2021.
- 23.13. The provisions of Sections 16.1.1 and 16.1.2, as amended by Revision Sheet No. RRM/Z/3/2021, shall apply from the day following the date of approval of the amendments to the Capacity Market Rules set forth in this Revision Sheet by a valid decision of the President of the ERO.
- 23.14. With respect to the capacity market units referred to in Article 9 (1) – (2) of the Act of July 23, 2021 on the amendment to the Act on the capacity market and certain other acts (Journal of Laws of 2021, item 1505), with respect to the delivery year 2025, the requirements resulting from Article 22 (4) of Regulation (EU) 2019/943 of the European Parliament and of the Council of June 5, 2019 on the internal market for electricity are deemed to have been met when all the generating units included in the physical units forming part a given capacity market unit, which commenced commercial production before July 4, 2019 and exceeded the emission limit, did not exceed the emission volume and at the same time all the generating units included in the physical units forming part a given capacity market unit which commenced commercial production no earlier than on July 4, 2019, did not exceed the emission limit.
- 23.15. In order to demonstrate the fulfilment of other requirements referred to in Article 9 (1) of the Act of July 23, 2021 on the amendment to the Act on the capacity market and certain other acts (Journal of Laws of 2021, item 1505), together with the declaration on the emission limit referred to in section 14.3.1, the following declaration should be submitted: “I declare that in the specified delivery year, all the generating units which commenced commercial production before July 4, 2019, included in the physical units forming part of capacity market unit with code CMU/....., which exceeded the emission limit, did not exceed the emission volume. At the same time, I hereby declare that the remaining generating units included in the physical units forming part of the aforementioned capacity market unit did not exceed the emission limit.”, hereinafter referred to as the “declaration on the emission volume”.
- 23.16. In order to submit the declaration on the emission volume referred to in Section 23.14, the volume of carbon dioxide emission for the generating unit should be determined in accordance with the following formula:

$$WkE = \frac{EJ \cdot E_{netto}}{P_{netto}}$$

where:

- WkE* – means the carbon dioxide emission volume from a given generating unit, expressed in kgCO<sub>2</sub>/kWe;
- EJ* – means the unit carbon dioxide emission factor of the generating unit, expressed in gCO<sub>2</sub>/kWh, calculated for a given delivery year, referred to in the Article 3a section 2 of the Act;
- E<sub>netto</sub>* – means the total net electricity generation in the generating unit in a given delivery year, expressed in GWh;

$P_{netto}$  – means the net maximum capacity of a given generating unit in a given delivery year, expressed in MW.

- 23.17. In connection with Article 8 of the Act of July 23, 2021 on the amendment to the Act on the capacity market and certain other acts (Journal of Laws of 2021, item 1505), with respect to capacity market units for which, in the process of main certification, no declaration on the commencement of commercial production by all generating units included in physical units forming part of capacity market unit before or after July 4, 2019 was submitted, the capacity provider is obliged to submit the above-mentioned declaration through the register within the time limit referred to in Section 14.3.1.
- 23.18. The register user authorised for submit the declaration referred to in Section 23.17 shall be a person meeting the requirements specified in Section 4.1.6.
- 23.19. Failure of the capacity provider to submit the declaration referred to in Section 23.17, shall mean that the capacity provider submits a declaration on the commencement of commercial production by at least one generating unit on or after July 4, 2019.

## 24. Appendices

24.1. The following appendices shall form an integral part of the Rules:

- App. 4.1. Template authorisation to submit applications for entry of a physical unit into the register
- App. 4.2. Template authorisation to submit applications for certification and act in the role of capacity provider
- App. 4.3. Template power of attorney for the register user
- App. 4.4. Template authorisation to dispose of a physical unit for the purpose of substitution the planned demand side response unit and to dispose of this physical unit for the purposes of the capacity market processes as a capacity provider
- App. 6.1. Template business plan of a planned demand side response unit
- App. 7.1. Template confirmation of the ability to deliver net maximum capacity
- App. 7.2. Template project substantive and financial schedule – new generating capacity market unit
- App. 7.3. Template project substantive and financial schedule – refurbishing generating capacity market unit
- App. 7.4. Template confirmation of technical parameters and location of a physical cross-border unit
- App. 7.5. Template commitment to provide metering/billing data and data regarding electricity generation or consumption reduction bids submitted by a physical cross-border unit
- App. 7.6. Template project substantive and financial schedule – demand side response capacity market unit
- App. 7.7. Template declaration of no impediment to the entity performing an independent study
- App. 7.8. Template Certificate
- App. 7.9. Template Provisory Certificate
- App. 7.10. Template document containing data necessary for verification of calculations of the unit carbon dioxide emission factor for the generating units
- App. 8.1. List of technology groups for which the de-rating factor is calculated
- App. 11.1. Template Capacity Agreement
- App. 13.1. Template Bank Guarantee
- App. 13.2. Template Insurance Guarantee
- App. 13.3. Template Suretyship Agreement
- App. 14.1. Template declaration on the achievement of the Financial Commitment Milestone
- App. 14.2. Template declaration on the capital expenditure incurred
- App. 14.3. Template declaration on performance of the substantive and financial schedule of the project – new generating capacity market unit
- App. 14.4. Template declaration on performance of the substantive and financial schedule – refurbishing generating capacity market unit. Confirmation
- App. 14.5. Template declaration on the value of state aid granted
- App. 14.6. Template declaration on performance of the substantive and financial schedule – demand side response capacity market unit
- App. 14.8. Template investment report – new generating capacity market unit
- App. 14.9. Template investment report – refurbishing generating capacity market unit
- App. 14.10. Template investment report – demand side response capacity market unit
- App. 14.11. Template declaration on performance of the substantive scope of the project – planned

physical generating unit

App. 14.12. Template substantive schedule of the project – planned physical generating unit

App. 14.14. Template declaration on compliance with the emission limit

App. 14.15. Template declaration confirming the delivery of capacity to the system by the capacity market unit for the purpose of monitoring the capacity agreements