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CAPACITY MARKET RULES

text with amendments arising from Update Sheet No. RRM/Z/2/2020

(2020-11-19)

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_n – Distribution System Operator whose distribution grid does not have a direct connection to the transmission grid, in accordance with IRIESP;
- 10) DSO_c – 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 foreign physical 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) generating unit – a generating unit referred to in Article 3(43) of the Act of April 10, 1997 on the Energy Law, or another separate set of equipment used for generation of electricity;
- 14) Civil Code – Civil Code Act of 23 April 1964;
- 15) 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;
- 16) emission limit – an emission limit of 550 g of carbon dioxide from fossil fuels per 1 kWh of net electricity generated, as 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 (OJ EU L 158, 14.06.2019, p. 54);
- 17) delivery point – delivery point (MD), referred to in IRiESP;
- 18) net available capacity – net maximum capacity reduced by planned or unplanned capacity losses;
- 19) 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;
- 20) 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;
- 21) bidder – a register user authorised to bid during a capacity auction and to report transactions in the secondary market;
- 22) substantial completion milestone – state in which the requirements referred to in Article 52(2) of the Act have been achieved;

- 23) 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;
- 24) 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;
- 25) energy consumption point – energy consumption point (PPE), referred to in IRiESD;
- 26) Rules – these Capacity Market Rules;
- 27) register – capacity market register, referred to in Article 55 of the Act;
- 28) commencement of the commercial production – the date of commencement of operation of the generating unit, as intended, after reaching the condition in which operation of this unit is legally and technically permissible;
- 29) 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);
- 30) generator output circuit – set of technical devices used to deliver electrical power to the grid, with the assigned metering points;
- 31) the Act – Capacity Market Act of 8 December 2017;
- 32) Value Added Tax Act – Value Added Tax Act of 11 March 2004;
- 33) RES Act – Renewable Energy Sources Act of 20 February 2015;
- 34) Energy Law Act – Energy Law Act of 10 April 1997;
- 35) Environmental Protection Law Act – Environmental Protection Law Act of 27 April 2001;
- 36) register user – a natural person holding an account in the register;
- 37) 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;
- 38) applicant – owner of the physical unit or planned demand side response unit or alternatively an entity authorised by him;
- 39) 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;
- 40) power to heat ratio – the quotient of the annual gross electricity production, expressed in MWh, and the annual gross heat production, expressed in MWh;
- 41) high-efficiency cogeneration – high-efficiency cogeneration within the meaning of the Energy Law Act;

42) 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 authorized 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 authorized 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 4.1.27.
- 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 authorized to represent the owner of a given physical unit, subject to Section 4.1.28.
- 4.1.10. 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).

- 4.1.11. The roles referred to in Section 4.1.10 shall be used in the register to define the authority of individual register users to perform specific activities.
- 4.1.12. 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.
- 4.1.13. Requests for the assignment of the rightholder or bidder role shall be submitted only through the register.
- 4.1.14. 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.
- 4.1.15. The request for the assignment of the rightholder or bidder role shall be considered by the TSO within 14 calendar days of its submission.
- 4.1.16. 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.
- 4.1.17. 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.
- 4.1.18. 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.
- 4.1.19. Canceling the user's right to view the applications and representations submitted by the user 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.
- 4.1.20. 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.
- 4.1.21. Register users other than those defined in Section 4.1.22 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 4.1.17 – register users with the bidder 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.
- 4.1.22. 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.
- 4.1.23. 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.
- 4.1.24. 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.
 - 4.1.25. 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.
 - 4.1.26. 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.
 - 4.1.27. 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.
 - 4.1.28. The entity (person) authorized to dispose of the physical unit for the capacity market processes is obligated to submit, along with the authorization 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 authorization to act on behalf of the owner of a given physical unit, the entity (person) authorized 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) authorized to dispose of the physical unit for the capacity market processes may submit the authorization 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 authorization referred to in Section 4.1.9 (2).
 - 4.1.29. 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.
 - 4.1.30. 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 authorizations 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 78¹ 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 foreign physical units

5.2.1. General rules

- 5.2.1.1. General certification shall not be performed for foreign physical 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 foreign physical 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 MW;
 - 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 no later than 5 working days after the end of the capacity auction to which a given pre-auction refers.

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 foreign physical 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 foreign physical generating units, or
 - 2) one or more foreign physical demand side response units
- located within a single transmission system being a part of the zone to which the 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 7.4.2.13 and 7.4.2.17.
- 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 7.1.7 and 7.1.8;

- 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_n – 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 DSO_ns 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 DSO_ns 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 DSOcs 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 7.4.2.14 (5) or (6) for the physical unit concerned. Otherwise, the provisions of Section 7.4.2.18 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) foreign physical units, declared by the capacity provider who was a participant of a relevant pre-auction and its bid was accepted
- subject to Section 7.1.5.
- 7.1.5. An application for certification referred to in Section 7.1.4, may not cover a physical unit consisting of a generating unit which does not meet the emission limit, subject to Section 7.1.6
- 7.1.6. The capacity provider may submit in a given calendar year an application for certification regarding one or more physical units consisting of one or more generating units that started the commercial production before July 4, 2019, and that in the delivery year will not meet the emission limit, if these generating units have met the emission volume determined for the period of the last three calendar years preceding the year in which the certification for the main auction or an additional auction takes place, subject to Section 7.4.2.8.
- 7.1.7. 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.
- 7.1.8. 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.
- 7.1.9. 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 consisting of 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) (I) (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 consisting of foreign physical 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 foreign physical 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 foreign physical 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 foreign physical 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;
 - 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, prepared using the template forming 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 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;
- 14) 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;
- 15) in the case of application for certification referred to in Section 7.1.6 – a declaration on meeting the emission volume by any of the generating units not meeting the emission limit and being a part of the physical units forming a given capacity market unit, determined for the period of the last three calendar years preceding the year in which the main certification takes place, subject to Section 7.4.2.8;
- 16) a document containing the data necessary for the TSO to verify the information referred to in Section 7.4.2.2 and 7.4.2.7, prepared in accordance with Appendix No. 7.10 to the Rules.

7.4.2.2. For the purpose of submitting the declaration referred to in Section 7.4.2.1 (13) and 7.4.2.14 (13), the unit carbon dioxide emission rate for a generating unit is determined in accordance with the following formula:

$$EJ = \frac{0,0036 \cdot (1 - t_{CO2}) \cdot \sum_{p=1}^{p=n} U_p \cdot WE_p}{\eta_{proj}}$$

where:

- EJ – means the unit carbon dioxide emission factor from a given generating unit, expressed in gCO₂/kWh;
- t_{CO2} – indicates the share of carbon dioxide emissions that has been transferred from a generating unit to a plant referred to in Article 49(1)(a) or (b) of Commission Implementing 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) No 601/2012 (OJ EU L 334 of December 31, 2018, p. 1), in the total emissions of that unit, expressed in %;
- p – is a fuel designation, where n is the number of fuels used in a given generating unit;
- U_p – shall mean the energy share of a given fuel in the entire fuel supplied to a given generating unit during the entire calendar year, expressed in %;
- WE_p – means a carbon dioxide emission factor for a given fuel, determined as for the emission reporting purposes specified in Commission Implementing 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, expressed in kgCO₂/TJ;
- η_{proj} – shall mean the efficiency of electricity generation in a given generating unit under design conditions, calculated as the quotient of net electric power and total fuel consumption under design conditions at net available capacity, taking into account the results of operational, guarantee or post-modernization measurements, whichever is the latest.

7.4.2.3. Subject to Section 7.4.2.6, the specific carbon dioxide emission rate 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 gCO₂/kWh;
- EJ_j – means the unit carbon dioxide emission factor of the generating unit j , being a part of the physical units forming a given capacity market unit, expressed in gCO₂/kWh, calculated in accordance with Section 7.4.2.2;
- α_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;
- α_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 foreign physical 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:

$$JW_{CO_2_{GB}}^j = \frac{CO_2_{tot}^j}{E_j + Q_j}$$

$$JW_{CO2_GB} = \sum_{j=1}^J \alpha_j JW_{CO2_GB}^j$$

where:

JW_{CO2_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;

$JW_{CO2_GB}^j$ – means the unit carbon dioxide emission factor for the generating unit j, expressed in g/kWh with accuracy to 3 decimal points;

$CO2_{tot}^j$ – 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;

α_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 electricity 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);

η – means the efficiency of a single charge/discharge cycle of an energy storage facility.

7.4.2.7. For the purpose of declaration referred to in Section 7.4.2.1 (15) and 7.4.2.14 (15) the average annual carbon dioxide emission for the generating unit is determined in accordance with the following formula:

$$WkE = \frac{1}{N} \sum_{y=Y-N}^{Y-1} \frac{EJ_y \cdot E_{netto_y}}{P_{netto_y}}$$

where:

WkE – means the average annual carbon dioxide emission from a given generating unit, expressed in kgCO₂/kWe;

N – means the number of calendar years for which emission is determined;

Y – means the year in which main certification is carried out;

EJ_y – means the unit carbon dioxide emission of the generating unit, expressed in gCO₂/kWh, calculated for the year y in accordance with Section 7.4.2.2;

E_{netto_y} – means the total net electricity generation in the generating unit in the year y , expressed in GWh;

P_{netto_y} – means the net capacity output of a given generating unit in the year y , expressed in MW.

7.4.2.8. If a given generating unit started the commercial production during the three calendar years preceding the year in which main certification takes place, or underwent a significant refurbishment during this period, which has affected the unit carbon dioxide emission factor, the number of calendar years for which the emission value is determined in accordance with Section 7.4.2.7 may be reduced to full calendar years which have elapsed from the date of commencement of the commercial production or completion of the refurbishment by the year in which main certification is conducted, but this number may not be equal to zero.

7.4.2.9. The information referred to in Section 7.4.2.1 (9), excluding point (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.

7.4.2.10. 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.

7.4.2.11. 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 financial 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) financial 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) 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.

7.4.2.12. 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 financial 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) financial 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) 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.

7.4.2.13. The application for certification of a generating capacity market unit consisting of foreign physical generating units shall contain:

- 1) a list of foreign physical generating units forming part of the capacity market unit together with the information referred to in Section 6.3.2.1 (1) – (5) and (8) for each foreign physical generating unit forming part of the capacity market unit concerned;
- 2) the information referred to in Section 7.4.2.1 (1), (2), (7) – (16);
- 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 foreign physical generating 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 foreign physical generating unit, stating compliance with the actual situation of the technical parameters and its location;
- 5) for each foreign physical generating 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 foreign physical generating unit, to provide the TSO with metering/billing data and data regarding generation bids submitted by a foreign physical 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.

7.4.2.14. 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;
- 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 financial 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:
 - financial expenditure referred to in point (a), and
 - where a demand side response capacity market unit consists of at least one generating unit – technical parameters of all generating units comprised in physical demand side response units forming part of a 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 forming part of physical demand side response units forming a given capacity market unit, 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 available 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) if the capacity market unit comprises at least one generating unit – 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 demand side response capacity market unit;
 - 14) if the capacity market unit comprises at least one generating unit – 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;
 - 15) in the case of application for certification referred to in Section 7.1.6– a declaration on meeting the emission volume by any of the generating units not meeting the emission limit and being a part of the physical units forming a given demand side response capacity market unit, determined for the period of the last three calendar years preceding the year in which the certification for the capacity auction takes place, subject to Section 7.4.2.8;
 - 16) 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 and 7.4.2.7, prepared in accordance with Appendix No. 7.10 to the Rules
- 7.4.2.15. Where a demand side response capacity market unit comprises a planned demand side response unit, the information referred to in Section 7.4.2.14 (2) (h) and subsections (5), (6), (9) and (12) – (16) shall not be required for such unit.
- 7.4.2.16. The period in which the expenditure referred to in Section 7.4.2.11 (1), 7.4.2.12 (1) and 7.4.2.14 (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.

7.4.2.17. The application for certification of a demand side response capacity market unit consisting of foreign physical demand side response units shall contain:

- 1) a list of foreign physical 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 7.4.2.14 (1), (2), (8) – 12);
- 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 foreign physical 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 foreign physical unit, stating compliance with the actual status of the technical parameters and location;
- 5) for each foreign physical 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 foreign physical demand side response unit, to provide the TSO with metering/billing data and data regarding electricity consumption reduction bids submitted by the foreign physical 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.

7.4.2.18. In the case of the confirmations referred to in Section 7.4.2.1 (4) or (5) and Section 7.4.2.9 (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,

7.4.2.19. 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 7.4.2.9 (5) and (6), respectively.

7.4.2.20. 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 Sections 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 consisting of a generating unit not meeting the emission limit, subject to Section 7.1.6;
 - 6) the application covers a physical unit of a generating unit that commenced commercial production before July 4, 2019, which does not meet the emission limit and the emission volume set for the period of the last three calendar years preceding the main certification;
 - 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 SCM 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 7.4.2.11 (2), in Section 7.4.2.12 (4) or in Section 7.4.2.14 (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 financial expenditure declared by the capacity provider in the application for certification;
 - 3) 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 SCM;
- 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.

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 7.4.2.9 (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 7.4.2.9 (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 8.1.2 (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.
- 7.5.3.2. In the case of capacity market units which concluded a capacity agreement as a result of the main auction for more than 1 delivery period, the certificate authorizes to participate in the secondary market in all delivery periods falling in the period for which the capacity agreement was concluded.
- 7.5.3.3. In the case of shortening the duration of the capacity agreement to one year, pursuant to Article 46(2) or (3) of the Act, the certificate authorizes to participate in the secondary market in the delivery year resulting from shortening the duration of this capacity agreement.
- 7.5.3.4. For the purpose of participation in the secondary market, based on the certificate referred to in Section 7.5.3.2 and 7.5.3.3, it is assumed that for a given capacity market unit, during the entire period of validity of the certificate, an de-rating factor is applied, which was determined for the first delivery period covered by this certificate.
- 7.5.3.5. In the case of a capacity market unit for which no capacity agreement was concluded during the capacity auction or a capacity agreement was concluded for no more than 1 delivery period, the certificate authorizes to participate in the secondary market only in the delivery year for which a given capacity auction was conducted, subject to Article 24(2) of the Act.
- 7.5.3.6. 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.
- 7.5.3.7. 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.
- 7.5.3.8. In order to terminate the certificate, the capacity provider shall request the TSO to terminate the certificate with the use of the register.

- 7.5.3.9. 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.
- 7.5.3.10. 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) ATC – Auction Target Capacity – forecasted capacity demand in a capacity auction, expressed in MW;
- b) CONE – 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 point (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 point (a) for which the price reaches the maximum value referred to in point (b), expressed in %;
- e) Y – the parameter determining the volume of capacity above the demand referred to in point (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 ATC, CONE, A, X and Y shall determine the capacity demand curve in accordance with the figure below:

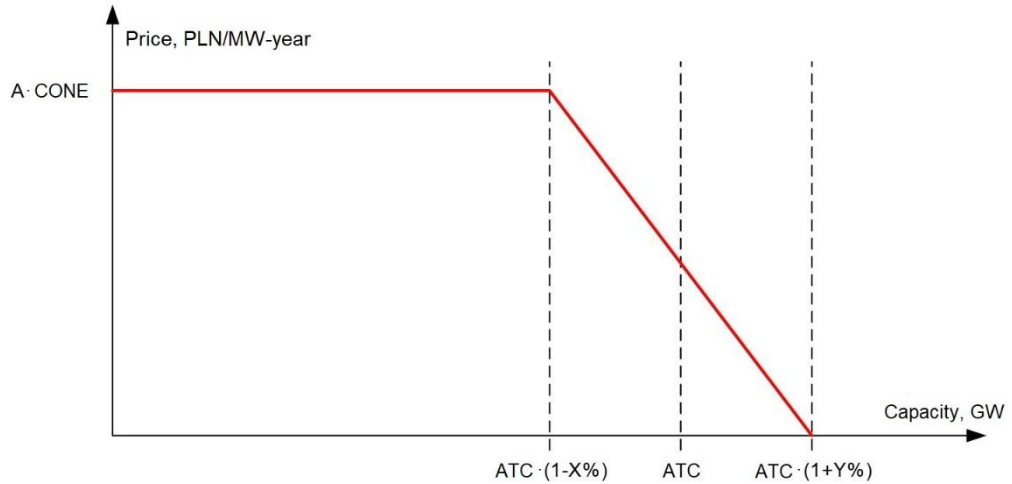


Fig. 8.2.1.1 – Capacity demand curve (illustrative drawing)

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

8.2.1.3. ATC 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:

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

where:

i – means a successive hour of analysis in a given quarter;

q – means a quarter of the year;

S – means a scenario;

ATC^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 in a given quarter q ;

$\text{ENSh}_i^{S,q}$ – 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 in a given quarter q .

2) for each quarter, ATC^q ($\text{ATC}^1, \text{ATC}^2, \text{ATC}^3, \text{ATC}^4$) is calculated, for which the expected value of the number of hours in which imbalance occurs meets the assumed safety standard:

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

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, accounting for the standard of security for a delivery year;
- E – means Loss of Load Expectation.

8.2.1.4. The scenarios for ATC 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. ATC 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 ATC 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. ATC shall be calculated for each quarter. The lowest value of four quarterly ATCs 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 (CONE) 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 financial 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 financial expenditure

8.2.5.1. The proposed unit levels of financial 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 financial expenditure shall apply in the case of:

- 1) new capacity market units – financial expenditure for a physical generating unit forming a 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 – financial 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 – financial 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 financial 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:

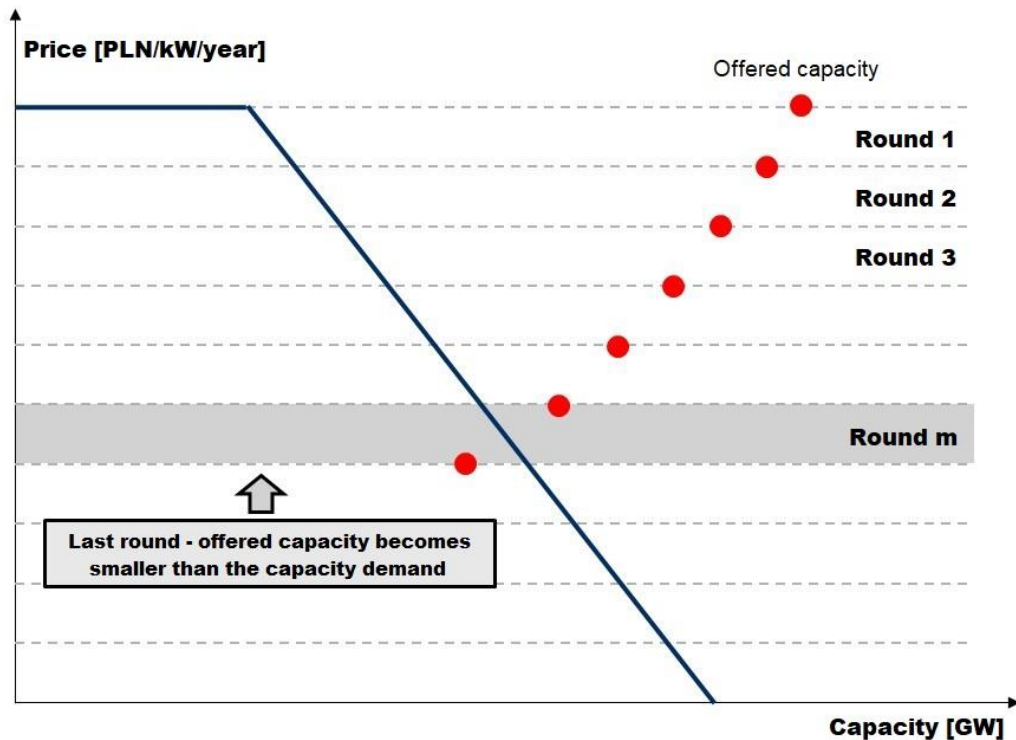


Fig. 9.2.3.1 – Illustrative chart of the capacity auction process.

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 foreign physical 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 foreign physical units situated in the same zone – in the case of a capacity market unit consisting of foreign physical 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 registry user authorized 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 15.1.4.
- 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 7.4.2.1(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 7.4.2.14 (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 being a part of a demand side response capacity market unit may not be replaced by one or more physical demand side response units comprising at least one generating unit not meeting the emission limit, subject to Section 10.1.10.
- 10.1.10. A generating unit that started the commercial production before July 4, 2019, and that does not meet the emission limit in the delivery year, may be part of a physical demand side response unit that replaces a given planned demand side response unit if the given generating unit met the emission volume determined for the period of the last three calendar years preceding the year in which the substitution application is submitted, subject to Section 7.4.2.8.
- 10.1.11. 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.
- 10.1.12. 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 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 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 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 registry 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), (2) h) and (3) – (7);
 - 2) the information referred to in Section 7.4.2.14 (5) – (6) and (9) – (16).
- 10.3.2. Details referred to in Section 7.4.2.14 (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 DSOcs;
 - 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 7.4.2.14 (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 7.4.2.14 (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 DSOcs 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, consisting of a generating unit not meeting the emission limit, subject to Section 10.1.10;
 - 6) the substitution application covers a physical demand side response unit consisting of a generating unit that started the commercial production before July 4, 2019, which does not meet the emission limit or the emission volume set for the period of the last three calendar years in which the request for replacement is submitted, subject to Section 7.4.2.8;
 - 7) 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. Secondary market transactions shall include:

- 1) transferring the capacity obligation of a capacity market unit in whole or in part to a capacity market unit of another capacity provider – in relation to a future part of the delivery period;
- 2) reallocation of a performed capacity obligation volume between capacity market units – with regard to non-performance of the capacity obligation by one capacity market unit and delivery by another capacity market unit of capacity in excess of the volume required in a system stress event.

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

12.3. The minimum capacity obligation volume to which a secondary market 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.

12.4. As a result of a secondary market transaction, only capacity obligations of individual capacity market units shall be transferred, save that the transfer of the capacity obligation to another capacity market unit shall not affect the price of the capacity obligation being transferred.

12.5. Transfer of the capacity obligation of one capacity market unit to another capacity market unit as a result of a transaction made in the secondary market (secondary trading in the capacity obligation) 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 obligation.

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

12.7. In order to provide the TSO with information on the conclusion of the transaction on the secondary market, one of the capacity providers shall notify about such transaction through the register, and the capacity provider being the other party to the transaction shall confirm the notification using the register.

12.8. 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.

12.9. The TSO shall verify the submitted transaction notification in terms of compliance with the conditions referred to in Article 48 (1) and (2) of the Act and shall verify whether the persons submitting the transaction notification and the person confirming such notification had the role of a bidder, assigned by the TSO, in relation to the capacity providers being parties to the given transaction.

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

12.11. Where a transaction notified to the TSO does not meet the conditions referred to in Article 48(2) of the Act, 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.

12.12. If a transaction declared in the register has been declared by a person with no relevant authorisation to represent capacity providers, 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.

12.13. 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".

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 foreign physical 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. 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, within the required deadline, in the correct amount and currency, and with the suitable content.
- 13.4.2. Bank guarantees and insurance guarantees submitted to the TSO as collateral must be irrevocable, unconditional and payable on the first demand.
- 13.4.3. The TSO shall accept bank guarantees and insurance guarantees drawn up in Polish.
- 13.4.4. The capacity provider shall submit a bank guarantee in the form of Appendix 13.1 to the Rules.
- 13.4.5. The capacity provider shall submit an insurance guarantee in the form of Appendix 13.2 to the Rules.
- 13.4.6. 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.
- 13.4.7. 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.
- 13.4.8. 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.
- 13.4.9. The new collateral referred to in Section 13.4.8 must be submitted to the TSO before the expiry of the validity period of the existing security, not later than within the time limit specified in the regulation issued under Article 51 (1) of the Act.
- 13.4.10. If the capacity provider does not submit new collateral within the time limit set forth in Section 13.4.9, the TSO shall change the form of collateral to collateral in the form of cash, through payment from the existing collateral.
- 13.4.11. Failure to submit new collateral shall constitute an event of default under the capacity agreement.
- 13.4.12. Collateral in the form of bank guarantee or insurance guarantee shall be deemed established upon the delivery of the original bank guarantee or insurance guarantee document to the general office at the TSO's headquarters at the following address: Polskie Sieci Elektroenergetyczne S.A., 05-520 Konstancin-Jeziorna, ul. Warszawska 165.
- 13.4.13. 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,

provided that in each case a copy of the guarantee document is required to be retained in paper or electronic form, as well as the original confirmation of posting and acknowledgment of receipt of the guarantee document in the case files kept by the TSO.

13.4.14. 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.

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 party with sufficient financial standing, meeting the requirements set forth in the regulation issued under Article 51(1) of the Act.

13.5.2. The suretyship agreement between the TSO and the party 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.

13.5.3. The template suretyship agreement forms Appendix 13.3 to the Rules.

13.5.4. As security for the suretyship agreement, the party 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.

13.6. 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 not later than 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 under Article 51 (1) of the Act.