

Energy Traders Europe's response to the draft act amending the Polish Energy Law

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Energy Traders Europe represents more than 185 companies trading electricity, gas and certificates across Europe. Our members include Polish market participants and other European companies active in the Polish market. We welcome the opportunity to comment on the draft act.

Our position in short:

- Charging the fee on revenue rather than margin, while removing the PLN 2.5 million cap, would make wholesale trading in Poland less commercially viable. Fewer counterparties would be available to Polish generators and suppliers, **worsening already low liquidity and ultimately raising costs for consumers.**
- The proposed fee is **not linked to the cost of supervising the market.** It is expected to raise more than PLN 3.5 billion a year, far beyond what regulatory oversight requires, and it is paid to the state budget rather than to URE.
- With fewer transactions, **the revenue the measure is intended to raise is likely to fall below estimates.**
- Applying the new coefficients to the 2026 fee **affects revenue from contracts concluded under the current rules.**

We ask that:

- the fee for trading activities be charged on realised margin rather than gross turnover;
- if the base does not change, a maximum fee be retained whatever coefficient is chosen;
- the fee be set at a level that reflects the cost of regulatory oversight;
- any new coefficients apply from the 2027 revenue year at the earliest, with a transitional period of at least [12] months for the new minimum fee and the removal of the cap.

Impact on the Polish market

Traders act as intermediaries. They take on risks that producers and consumers do not want to hold; they carry positions from a forward contract through to delivery, and they

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move them across borders. That activity is what gives a generator a counterparty when it sells forward and a supplier a counterparty when it hedges its customer book. The more intermediaries there are, the more liquidity, which tightens spreads, and tighter spreads make hedging cheaper for everyone. That attracts further participants, and the cycle reinforces itself.

The same cycle can also run in reverse. Fewer participants mean less liquidity; less liquidity widens spreads; wider spreads make hedging more expensive; and the market becomes less worth entering.

Poland already begins from a weak position. The churn ratio in the Polish wholesale electricity market, meaning traded volume as a multiple of physical consumption, is around 0.3, against roughly 8.43 in Germany and 2.11 in Hungary. Forward liquidity beyond the front year is limited on both electricity and gas markets, and the number of active participants is small for a market of this size. For Polish consumers and market participants, weak liquidity can translate into wider spreads, higher hedging costs and potentially a higher cost of capital for new generation.

The draft would add to these challenges. It raises the coefficients tenfold, from 0.0005 to 0.005 for electricity, gas and heat and from 0.0003 to 0.003 for liquid fuels. It removes the maximum fee of PLN 2,500,000. It also lifts the minimum fee from PLN 1,000 to PLN 5,000 for each licensed activity, which raises the cost of entry for new and smaller participants.

The fee is charged on turnover, not on what a trader earns

The fee is calculated on revenue generated by an energy undertaking from the sale of products or services within the scope of its licensed activities, meaning gross sales value. For generation, networks and supply, that bears some relation to the size of the business. For wholesale trading, it does not. A trader books the full sale value of every megawatt hour it sells, while its return is the difference between what it paid and what it received. That difference is usually a fraction of one per cent.

A trader buying at PLN 400 per MWh and selling at PLN 402 books revenue of PLN 402 and earns PLN 2. Under the proposed coefficient, the fee on that trade is PLN 2.01. It would therefore exceed the entire trading margin, before other costs. At today's coefficient, it is PLN 0.20, and the cap limits total exposure, whatever the volume traded.

The cap is what has kept a turnover-based charge workable for high-volume, low-margin business. Removing it and multiplying the coefficient by ten at the same time changes what the instrument is. And because the fee applies separately to each licensed activity, a company holding electricity trading, gas trading and cross-border gas trading licences carries that exposure across each activity.

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We therefore ask that the fee for trading activities be charged on realised margin rather than gross turnover. This is the same point we made to the Polish authorities in 2022 on the clawback mechanism, where we argued that only actual realised revenues should form the base. The principle has not changed.

The measure will not raise what is expected of it

Because the fee applies to each sale, it can be incurred again at every step of intermediation. If a megawatt hour passes through five trading transactions before delivery, the charge can therefore be incurred five times. For PLN 400 per MWh and the proposed coefficient, this would amount to approximately PLN 10 per MWh in cumulative charges across those transactions.

Whether these costs are passed through to the final consumer will depend on market conditions. The important point is that the cost increases with the number of transactions, creating a direct disincentive to intermediation and liquidity.

Companies may trade less in Poland, net positions internally rather than through the market, or restructure trading activity to minimise exposure to the charge. The estimate of PLN 3.5 billion assumes trading volumes do not react to a tenfold increase. That is very unlikely. The result could therefore be a smaller and less liquid market, while the additional revenue raised falls short of the initial estimate.

Proportionality

The rationale for a licence fee is normally connected to the regulatory framework and oversight associated with the licensed activity. In Poland, that connection is already weak, since the fee is calculated on turnover and paid to the state budget rather than to the regulator. The draft does not restore it. At the scale proposed, the sums raised bear no relation to the cost of supervising licensed undertakings. **We ask that the fee be set at a level that reflects the cost of regulatory oversight, and that a maximum fee be retained whatever coefficient is chosen.**

Timing

Article 3 applies the new coefficients to the fee arising for 2026. Much of the revenue for that year comes from forward contracts concluded in 2024 and 2025, and most of the rest has already been earned. Companies priced all of it under the existing rules and cannot revisit those decisions. **We ask that any new coefficients apply from the 2027 revenue year at the earliest.**

In addition, the introduction of the new minimum fee and the removal of the maximum licence fee should be subject to an appropriate transitional period to ensure the operational stability of licensed undertakings.

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