

**EFET calls on the Polish government to revise the Act of 28 December 2018  
resulting in power market suspension**

The European Federation of Energy Traders<sup>1</sup> urges the Polish authorities to amend the Act amending the Excise Duty Act and other Acts (further referred to as “the Act”) as **it represents a market interference on an unprecedented scale**. The Act has been introduced in a rush, with no stakeholder consultation and with little attention given to its implications for the energy sector.

EFET believes that the Act effectively translates into a **power market suspension in Poland**, through administrative price setting<sup>2</sup>. It also **compromises the freedom to conclude transactions** between the suppliers and their business counterparties and **does not only impact the arrangements for 2019**, due to uncertainty it creates, **but also the contracts concluded on the forward market**. As a result, **consumer prices have been disconnected from the wholesale market reality**, creating tremendous financial burdens for suppliers. At the same time, **the proposed compensation mechanism not only raises the question about its permissibility under the EU law but may simply turn out to be insufficient**.

While we understand that the intention of the Act was to limit the impact of the price change on end-consumers, the proposed solution raises a number of legal issues and exposes Poland to a risk of being fined for violating EU law. Apart from the already questioned state aid permissibility, **the amendments violate the principles of the Internal Market** laid down in a number of Directives and Regulations of the European Union and go far beyond setting the tariffs for protected consumers. They affect the tariffs level as well, effectively **limiting the National Regulatory Authority’s competence** that is guaranteed under the Polish Energy Act<sup>3</sup>.

EFET believes that the Act of 28<sup>th</sup> December 2018 will result in tremendous unnecessary costs for the Polish economy, as **it does not investigate or address the underlying reason for the power price growth observed in 2018**, but merely suspends the prices at a level that was arbitrarily deemed appropriate. EFET urges the

<sup>1</sup> The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 28 European countries. For more information, visit our website at [www.efet.org](http://www.efet.org).

<sup>2</sup> The Act obliges power trading companies to conclude transactions at the prices preceeding 30<sup>th</sup> June 2018 and it also forces them to revise all the contracts signed post that date and adjust them to the prices from the past.

<sup>3</sup> The Act has arbitrarily frozen the tariffs for end consumers at a level from 2018 and reduced the transitory fee that was included in the distribution fees.

Polish authorities to amend the provisions of the Act narrowing down its scope to limiting the fiscal burdens placed on consumers. **Maintaining freedom of price formation as the cardinal market principle** would ensure long-term price adequacy for the Polish consumers, without violating international arrangements.

We are convinced that the best way to develop the energy sector and optimize the power prices in Poland is opening the market to greater competition and attracting liquidity through ensuring a stable regulatory environment.