

**INFORMATION BROCHURE FOR THE LICENSE FEE FORM
SETTLING THE REVENUE EARNED IN 2022**

LEGAL BASIS

The obligation to pay the license fee and submit the license fee form results from Article 34 item 4 of the Act of 10 April 1997 - Energy Law (Journal of Laws of 2022, item 1385, as amended), hereinafter referred to as the "Act".

The obligation to pay the license fee arises on the last day of the calendar year in which the energy company generated income from each type of activity covered by the license greater than or equal to zero.

The energy company is obliged to calculate and pay the fee and to document the correctness of its calculation (§ 3 (1) of the regulation of Council of Ministers of October 12, 2021 on the license fee (Journal of Laws of 2021, item 1938), hereinafter referred to as "Regulation".

Information on the calculation of the license fee and its amount is submitted by the energy company using the license fee form, the template of which is attached as appendix 1 to the above-mentioned Regulation.

GENERAL INFORMATION

- 1) The form must be completed **separately for each type of activity subject to the license.**
- 2) Energy companies conducting liquid fuel storage activity complete two forms – separately for liquid fuel storage and liquid fuel transloading, and pay two license fees.
- 3) All energy companies with a license are obliged to submit a license fee form – **including companies that are exempt from paying the license fee.**
- 4) The obligation to pay the license fee arises on the last day of the calendar year, i.e. 31 December 2022, so if:
 - ✓ the license holder had a valid license in 2022 and did not generate any income from the activities covered by the license in that year (the revenue amounted to PLN 0 in 2022), then the company should pay the fee in the minimum amount, i.e. PLN 1,000, by 15 April 2023;
 - ✓ the license expired or was revoked during year 2022, the company is obliged to settle the revenue generated in 2022 and pay the fee by 15 April 2023. This means that this is the deadline. However, the company may submit the form and pay this fee earlier. In this case, the fee form must state that the revenue shown on the form

is the **latest** version of its posting on the company's side arising from the conduct of the activity covered by the license in **2022**.

SUBMISSION DEADLINE

Pursuant to Article 34 sec. 4 of the Act and in connection with § 4 of the regulation, the deadline for paying the license fee and submitting the license fee form is 15 April of the year following the year in which the obligation to pay the fee arises.

For the fee settling the income earned in 2022, the final deadline for payment is 15 April 2023.

Note: *If during a calendar year, the company's license was revoked or expired, the company may settle the income earned in a given calendar year without undue delay, before the final payment date, which is April 15 of the following year.*

IDENTIFICATION DETAILS OF THE LICENSE HOLDER

Provide the NIP (tax identification number) and business name of the license holder along with the current registered address.

DATE OF ISSUE OF THE LICENSE

Provide the date of the decision issuing the license.

LICENSE NUMBER

Provide the number of the license.

TYPES OF ACTIVITY COVERED BY THE LICENSE

Provide the type of activity covered by the license in accordance with the table below containing the types of activity covered by the license along with their abbreviations and coefficients for calculating the license fee.

Types of activity covered by the license	Co-efficient
Generation of heat - (WCC)	0.0005
Transmission or distribution of heat - (PCC)	
Trading in heat - (OCC)	
Generation of electricity - (WEE) <i>(excluding energy companies exempt from the license fee)</i>	
Storage of electricity (MEE)	
Transmission of electricity - (PEE)	
Distribution of electricity - (DEE)	
Trading in electricity - (OEE)	
Storage of gaseous fuels - (MPG)	
Transmission of gaseous fuels - (PPG)	
Distribution of gaseous fuels - (DPG)	
Trading in gaseous fuels - (OPG)	
Trading in natural gas with foreign countries - (OGZ)	
Liquefaction and regasification of natural gas - (SGZ)	

Generation of electricity in an offshore wind farm (MFW)	0.0003
Manufacture of liquid fuels - (WPC)	
Storage or transloading of liquid fuels - (MPC-M) or (MPC-P)	
Transmission or distribution of liquid fuels - (PPC)	
Trading in liquid fuels - (OPC)	
Trading in liquid fuels with abroad - (OPZ)	
Transmission of carbon dioxide - (PDW)	

SETTLING THE INCOME EARNED IN 2022

In item 1, enter the net revenue*, i.e. less the value-added tax (VAT), generated from the type of activity covered by the license in the year in which the obligation to pay the fee arose, as shown in the sales documents for 2022.

The amount of revenue should be rounded off to full zlotys in such a way that the amount ends of less than 50 grosz are ignored and the amount ends of 50 grosz or more are increased to full zlotys.

In item 2, enter the coefficient appropriate to the type of the conducted activity covered by the license: 0.0003 or 0.0005 or zw - in the case of an exemption.

The coefficients used to calculate the payable fee are shown in the table above. The three-letter abbreviation for the type of activity covered by the license is also included in the license number, making it easy to find the correct coefficient.

Comment: License holders engaged in the business of trading in liquefied gas perform this business under an OPC license, and therefore the appropriate coefficient for this business is 0.0003.

Energy companies exempt from the license fee

- 1) Energy companies generating electricity in a renewable energy source installation with a **total capacity** of the renewable energy source installation **up to 5 MW**, in the field of energy production in this installation (Article 34 sec. 7 of the Act).
- 2) Energy companies having the status of a Sheltered Employment Company and being subject to exemption from the license fee pursuant to Article 31 sec. 1 item 2 of the act of 27 August 1997 on professional and social rehabilitation and employment of disabled persons (Journal of Laws of 2023, item 100 as amended). If one is subject to the above-mentioned exemption, it is necessary to send a copy of the current decision confirming the aforementioned eligibility.

In item 3, enter the value resulting from multiplying the revenue from the activity covered by the license shown in item 1 by the coefficient of the payable fee shown in item 2.

In item 4, enter the amount from item 3 taking into account the following conditions:

- the payable fee shall not be less than **PLN 1,000** (one thousand Polish zloty) and more than **PLN 2,500,000** (two million five hundred thousand Polish zloty) excluding energy companies exempt from the obligation to pay the fee, in case of which the fee is **PLN 0.00** (zero Polish zloty);

- the fee should be rounded off to full zlotys in such a way that the amount ends of less than 50 grosz are ignored and the amount ends of 50 grosz or more are increased to full zlotys.

SETTLEMENT OF THE INSTALLED POWER CAPACITY OF OFFSHORE WIND FARM IN 2022

In item 5, provide the installed power capacity of the offshore wind farm within the meaning of Art. 3 point 2 of the Act of 17 December 2020 on promoting electricity generation in offshore wind farms (Journal of Laws of 2022, item 1050, as amended), expressed in MW, resulting from the electricity production license in this offshore wind farm.

In item 6, enter 23,000, in accordance with Annex 2, part B of the Regulation.

In item 7, the value resulting from the multiplication of the installed power capacity of the offshore wind farm shown in item 5 and the factor of the fee payable indicated in item 6.

In item 8, provide the number of days in a given calendar year preceding the date of granting the license to generate electricity in an offshore wind farm and / or the number of days in a given calendar year following the date of withdrawal or expiry of the license to produce electricity in an offshore wind farm.

In item 9, the amount shown in item 7 should be reduced proportionally by the number of days in a given calendar year preceding the date of granting the license to generate electricity in an offshore wind farm and by the number of days in a given calendar year following the date of withdrawal or expiry of the license to generate electricity in an offshore wind farm.

In item 10, provide the value of the fee due, resulting from adding up the amount shown in item 4 and the amount shown in item 9.

LICENSE FEE WITH INTEREST

In item 11, in the case of a late payment:

- of the license fee **representing the settlement of the revenue earned in 2022**, shown in item 4, subject to the second indent,
- by the license holder conducting economic activity in the field of generating electricity in an offshore wind farm (MFW), the fee due constituting the sum of the settlement of the revenue achieved in 2022 shown in item 4 and settlement of the installed power capacity of the offshore wind farm in 2022, shown in item 10,

calculate the default interest, calculated as interest on tax arrears after rounded off to the nearest full zloty. Interest is to be calculated from **16 April 2023** to the date of payment of the fee.

In item 12, enter:

- in the case of settlement of the revenue achieved in 2022, the value that is the sum of the payable fee (item 4) and the amount of interest for late payment (item 11), subject to the second indent,
- in the case of a license holder conducting economic activity in the field of generating electricity in an offshore wind farm (MFW), the value that is the sum of the payable fee (item 10) and the amount of interest for late payment (item 11).

In item 13, state:

- in the case of an exemption from payment of the fee, the legal basis for the exemption or other relevant information in the case.

DATE AND METHOD OF PAYMENT

The license fee should be paid by **15 April 2023** to the account of the Energy Regulatory Office: **No. 58 1010 1010 0028 7322 3100 0000** at NBP O/O Warsaw.

On the transfer, in the "title" section, enter the NIP (tax identification number), the license number, and the year of the revenue accounted for in the return, i.e. **2022**.

IMPORTANT !!!

Failure to pay license fees constitutes a breach of the terms of the license and may result in the initiation of proceedings for revocation of the license and enforcement proceedings will be initiated to collect the amount due through administrative enforcement, resulting in additional enforcement costs.

DATE AND METHOD OF SUBMITTING THE FORM

Information on the calculation of the license fee and its amount should be submitted by the license holder using the license fee form, the template of which is attached as appendix no. 1 to the Regulation, by 15 April **2023**.

The completed form prepared separately for each type of activity covered by the license, along with confirmation of payment, should be submitted by 15 April 2023:

- a) in writing, in paper form, to the Energy Regulatory Office (02-222 Warsaw, Al. Jerozolimskie 181),

or

- b) in writing, in electronic form, signed with a qualified electronic signature, a trusted signature or a personal signature, to the electronic inbox of the President of the ERO: /URE/skrytkaESP.

It is not possible to send the form to the e-mail address of the Energy Regulatory Office. The form sent by e-mail will not be considered as properly delivered.

IMPORTANT !!!

Whoever fails to perform or improperly performs the obligation to use the license fee form referred to in Article 34 sec. 4, or the obligation referred to in Article 34 sec. 5 of the Act **shall be subject to a fine in the amount of PLN 1,000** (Article 56 sec. 1 item 50 in conjunction with Article 56 sec. 2h item 10 of the Act).

ADDITIONAL INFORMATION

1. An energy company holding a license for trading in gaseous fuels (OPG) and a license for trading in natural gas with foreign countries (OGZ) and/or a license for trading in liquid fuels (OPC) and a license for trading in liquid fuels with foreign countries (OPZ) should calculate the fees for the abovementioned licenses as follows: the revenue from activities

covered by the OPG/OPC license should include natural gas/liquid fuel purchased domestically and sold domestically; whereas the revenue from the foreign sale of natural gas/liquid fuel purchased domestically and the domestic sale of natural gas/liquid fuel purchased abroad should be included in the activity covered by the OGZ/OPZ license.

2. **The revenues from the electricity sale in the balancing market** should be included in the revenues of the energy company, constituting the basis for calculating the license fee. The exception is the energy company acting as the party responsible for commercial balancing. In this case, commercial balancing is a type of service that comes down to settlements of energy belonging to another entity and does not constitute electricity trading.

However, in case the balancing electricity is resold by the trading company on the basis of a sale agreement, such transaction constitutes a sale of energy within the meaning of the Energy Law Act, and the revenue earned from the sale of such energy should be taken into account when calculating the license fee.

3. The act of "**re-invoicing**" is not a manifestation of conducting business activity. Re-invoicing the costs of purchase of electricity, gaseous fuels and heat does not mean conducting business activity in the field of trading in electricity, gaseous fuels and heat, and therefore does not trigger the obligation to pay license fees on this account. The entity that sells electricity, gaseous fuel or heat, and therefore is held accountable for the obligation to pay the license fee, is the issuer of the invoice, not the entity issuing the "re-invoice".
4. Energy companies conducting activity in the area of generation of electricity are obliged to pay license fees and should include in the basis of their calculations **revenues from the sale of capacity reserves and system services**.
5. Energy companies that **sell property rights** resulting from the certificates of origin of electricity from renewable sources and resulting from the certificates of energy efficiency do not include the revenue obtained on this account in the basis for calculating the license fee.

- ~~6. Energy companies trading in the gaseous fuels that sell property rights resulting from the energy efficiency certificates do not include the revenue obtained on this account in the basis for calculating the license fee.~~ Energy companies trading in electricity and providing comprehensive services to customers, shall qualify for the basis for calculating the license fee only the revenue from the activity covered by the license, i.e. revenue from the sale of electricity. **Provision of distribution services** does not fall within the scope of an electricity trading license, however the license fee on this revenue should be paid by the relevant distribution system operator.

7. Energy companies holding **liquid fuel storage or transloading licenses** (MPC-M or MPC-P) are obligated to pay license fees, separately for fuel storage (MC-M) and separately for liquid fuel transloading (MPC-P). These fees should be calculated on the basis of the revenue generated from each of these activities, respectively. Two forms must also be completed: a separate form for the liquid fuel storage license fee and a separate form for the liquid fuel transloading license fee.

8. Energy companies who obtained a license to trade in liquid fuels (in the scope of LPG) or to trade in gaseous fuels in connection with the planned excess of the trade amount exempting from the obligation to hold a license - respectively **EUR 10,000 (for liquefied petroleum gas LPG) and EUR 100,000 (for gaseous fuels)**, include in the revenue constituting the basis for calculating the license fee all revenues from this activity obtained in a given calendar year – also those generated under the above-mentioned limits.
9. The revenues of the energy company, constituting the basis for calculating the license fee, should include **the revenues obtained from the sale of guarantees of origin for electricity generated from renewable energy sources, issued to the producer of this by the President of the Energy Regulatory Office on the basis of the Act of February 20, 2015 on renewable energy sources (Journal of Laws of 2022, item 1378, as amended).**
10. **Coverage of the negative balance** in the affected companies is not revenue derived from the sale of goods and services, but rather state aid revenue. The amounts received on this account are not to be included in the revenue constituting the basis for calculating the license fee.
11. The amounts from the following fees: **capacity fee, quality fee, co-generation fee and RES fee**, collected by relevant companies and then transferred to Zarządca Rozliczeń S.A., are not included in the revenue of these companies which is the basis for the calculation of the license fee.
12. The President of the Energy Regulatory Office may require from companies information regarding the basis and correctness of the fee calculation (Article 34 sec. 5 of the Act in conjunction with § 2 sec. 1 of the Regulation). Companies who fail to comply or comply improperly with this obligation are subject to the legal sanctions specified in Article 56 sec. 1 item 50 in conjunction with Article 56 sec. 2h item 10 of the Act, i.e., **a fine in the amount of PLN 1,000.**
13. Failure to submit the form and pay the fee may result in its determination by decision of the President of the ERO, the enforcement of which will be carried out in accordance with the provisions of the Act on enforcement proceedings in administration of 17 June 1966 (Journal of Laws of **2022**, item **479**, as amended) or in undertaking other administrative actions by the ERO, including revoking the license.
14. If the energy company did not correctly calculate the license fee and pay it, the President of the ERO determines the license fee by way of an administrative decision (§ 5 of the Regulation).
15. Energy companies who fail to pay the fee are subject to the provisions of the Act on Enforcement Proceedings in Administration of 17 June 1966 (Journal of Laws of **2022**, item **479**, as amended).

*** INTERPRETATION OF THE TERM "REVENUE" FOR THE PURPOSES OF CALCULATING
THE LICENSE FEE**

In determining the revenue referred to in Article 34 sec. 2 of the Act of 10 April 1997 - Energy Law (Journal of Laws of 2022, item 1385, as amended), for the purposes of calculating the license fee, the general rules for calculating revenue for income tax purposes should be applied. In the case of entities that are legal persons, the provisions of the Corporate Income Tax Act should be applied (Journal of Laws of 2022, item 2587, as amended). In the case of natural persons, the provisions of the Personal Income Tax Act (Journal of Laws of 2022, item 2647, as amended) will be applicable. Consequently, the basis for the assessment of the license fee is the revenue (calculated in accordance with the rules arising from the aforementioned acts) earned from the sale of goods or services within the scope of the activity covered by the license. For the above-mentioned reasons, this income should take into account, inter alia, excise tax.

Article 34 sec. 1 of the Energy Law Act stipulates that an energy company to which a license has been granted shall pay an annual fee to the state budget, charged to the costs of its operations, hereinafter referred to as the "license fee". The term "revenue" was used by the legislator in Article 34 sec. 2 of the Act to describe the method of calculating the license fee, where it reads that "the amount of the license fee is a product of the energy company's revenue derived from the sale of goods or services within the scope of its activity covered by the license, earned in the year in which the obligation to pay the fee arose, and the relevant coefficient, as defined in the regulations issued pursuant to sec. 6". The notion of "revenue" is not defined in the Energy Law Act but it appears in the context of calculation of the license fee, which is a type of public levy - the fee referred to in Article 2 § 2 of the Tax Ordinance Act of 29 August 1997 (Journal of Laws of 2022, item 2651, as amended), pursuant to Art. 34 sec. 8 of the Act, so it will be appropriate to use the provisions of tax law for its interpretation.

In the Personal Income Tax Act the legislator defines the source of revenue as non-agricultural business activity (Article 10 sec. 1 item 3 of the Personal Income Tax Act). According to Article 14 sec. 1 of the above Act, revenue from the activities referred to in Article 10 sec. 1 item 3 is understood as amounts due, even if not actually received, excluding the value of returned goods, and discounts and rebates granted. With respect to taxpayers selling goods and services subject to VAT, revenue on such sales is deemed to be revenue less output VAT (subject to certain exceptions, e.g. Article 14 sec. 2 items 7d and 7f of the Personal Income Tax Act).

In the case of corporate income tax, the regulation referring to the notion of "revenue" is the provision of Article 12 of the Corporate Income Tax Act, which, although it does not introduce a definition, specifies by way of an exemplary list, which categories of gains are included in revenue (sec. 1) and which are excluded (sec. 4). Pursuant to Article 12 sec. 1 item 1 of the Corporate Income Tax Act, revenue, subject to sec. 3 and 4 and Article 14, is comprised in particular of money and monetary values received, including exchange rate differences. Revenue within the meaning of the above Act does not include e.g. output VAT on goods and services (Article 12 sec. 4 item 9), VAT differences refunded under separate regulations (Article 12 sec. 4 item 10), VAT receivables exempted from payment within the meaning of VAT regulations (Article 12 sec. 4 item 10a), however, in case of reduction or reimbursement of the VAT or reimbursement of excise tax pursuant to separate regulations, the input VAT or reimbursed excise tax is included in that part in which the tax was previously included in tax deductible expenses (Article 12 sec. 1 item 4f).

It does not follow from the content of the aforementioned legal acts that excise tax which was included in the calculation of the price of the goods sold and, as a result, constitutes the

company's gain is not included in revenue. For these reasons it should be concluded that the reduction of the company's revenue for the purposes of calculating the license fee by the amount of the excise tax would lead to obtaining an abstract amount of an undefined economic category, which is no longer the revenue referred to in the income tax acts, but which is not yet, for instance, the company's income. In light of the explanations presented above, such an action is unacceptable.

The booklet contains the information necessary to properly calculate and pay the license fee. In special cases, the Energy Regulatory Office may be contacted for additional information.

In special cases, in order to obtain the position of the Energy Regulatory Office, an inquiry should be sent in writing or to the electronic inbox of the Energy Regulatory Office on the ePUAP platform: /URE/skrytkaESP.

In matters concerning the status of receivables, questions should be sent to the email address: oplaty.koncesyjne@ure.gov.pl.

In the subject of the message, please enter the DKN number or NIP number of the energy company to which the question relates.