

Practitioners' Corner

POLISH HOUSING COOPERATIVES WILL BE ABLE TO CARRY OUT TASKS AS A CIVIC ENERGY COMMUNITY

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Introduction

The European Union is implementing a transformation process towards the widespread use of green energy. The implementation of the activities is long-term and is to be completed by 2050. This is when the EU area is to become a model example of a zero-emission economy prepared also for the Polish housing cooperatives which will be able to carry out tasks as a civic energy community.

As of 7 September 2023, a polish amendment to the Act on Housing Cooperatives entered into force, as a result of which housing cooperatives will be able to perform tasks as a civic energy community within the meaning of Article 3(13f) of the Act of 10 April 1997. - Energy Law (Journal of Laws 2022, item 1385, as amended). In order to do so, it is necessary to enact amendments to the statutes of a given housing cooperative, as the amendment consists in amending the provision of Article 1(2) of the Act on Housing Cooperatives by adding point 6 to paragraph 2 after point 5. Thus, the provision of Article 1(4) of the Act on Housing Cooperatives, according to which it is the statutes of a cooperative that determines which activity, from among those listed in paragraphs 2 and 3, the cooperative conducts, will apply.

A civic energy community is an entity with legal capacity which:

- (a) is based on voluntary and open participation and in which decision-making and control powers are vested in members, shareholders or partners who are exclusively natural persons, local government units, micro-entrepreneurs or small entrepreneurs within the meaning of Article 7(1)(1) and (2) of the Act of 6 March 2018. - Entrepreneurs' Law (Journal of Laws of 2023, item 221, 641, 803 and 1414), for which economic activity in the energy sector is not the subject of basic economic activity defined in accordance with the provisions issued pursuant to Article 40(2) of the Public Statistics Act of 29 June 1995,
- (b) has as its primary objective the provision of environmental, economic or social benefits to its members, shareholders or associates or the local areas in which it operates,
- (c) may deal with:
 - in relation to electricity:

generation, consumption or distribution, or selling, or trading, or aggregation, or storage, or

- carrying out projects aimed at improving energy efficiency, as defined in Article 2(12) of the Energy Efficiency Act of 20 May 2016, or
- providing charging services for electric vehicles, as referred to in the Act of 11 January 2018 on electromobility and alternative fuels, or
- the provision of other services on the electricity markets, including system services or flexibility services, or
- the generation, consumption, storage or sale of biogas, agricultural biogas, biomass and biomass of agricultural origin within the meaning of Article 2(1), (2), (3) and (3b) of the Act of 20 February 2015 on Renewable Energy Sources (Journal of Laws of 2023, item 1436 and 1597).

A civic energy community in the light of Article 11zi of the Act of 10 April 1997 may carry out its activities in the form of:

- 1) cooperatives within the meaning of Article 1 § 1 of the Act of 16 September 1982. - Cooperative Law (Journal of Laws of 2021, item 648 and of 2023, item 1450) and a housing co-operative referred to in the Act of 15 December 2000 on housing co-operatives (Journal of Laws of 2023, item 438 and 1463);
- 2) a housing community referred to in Article 6 of the Act of 24 June 1994 on Ownership of Premises (Journal of Laws of 2021, item 1048);
- 3) an association within the meaning of Article 2, paragraph 1 of the Act of 7 April 1989. - Law on Associations (Journal of Laws of 2020, item 2261), excluding an ordinary association; a partnership, excluding a partnership within the meaning of Article 4 § 1 of the Act of 15 September 2000. - Commercial Companies Code (Journal of Laws of 2022, item 1467, 1488, 2280 and 2436 and of 2023, item 739 and 825);
- 4) farmers' cooperatives as referred to in the Act of 4 October 2018 on farmers' cooperatives (Journal of Laws, 2073).

If a civic energy community operates exclusively in the field of renewable energy sources, decision-making and control rights shall be vested in the members, shareholders or associates residing or established in the area of operation of the same electricity distribution system operator.

A member, shareholder or partner of a civic energy community shall retain the rights and obligations arising from its status as a final customer or active customer, including a household electricity customer.

A civic energy community shall operate in the area of operation of a single electricity distribution system operator to whose grid the installations belonging to the members, shareholders or associates of that community are connected. The area of operation of a citizens' energy community shall be determined on the basis of the points of connection of installations belonging to members, shareholders or associates of that community to the electricity distribution network

with a rated voltage of 110 kV or less. The activities of a citizens' energy community may not include interconnections with other countries. The statutes or agreement of the civic energy community shall determine the method of billing and the distribution of electricity that is generated by the civic energy community's owned generating units.

However, from 24 August 2024, the provision of Article 11 zm of the Energy Law will also enter into force, according to which a civic energy community may only undertake activities after obtaining an entry in the list of civic energy communities maintained by the President of the Energy Regulatory Office (ERO). Obtaining an entry in the list of civic energy communities does not exempt a civic energy community from the obligation to obtain a licence or an entry in the register of regulated activities, in the event that a civic energy community undertakes activities subject to the obligation to obtain a licence or an entry in the register of regulated activities. Thus, the commencement of activities by a housing cooperative as a civic energy community will be possible not only after the amendment of the statute and registration of this amendment in the National Court Register, but also after obtaining an entry in the list of civic energy communities maintained by the President of the Energy Regulatory Office.

Conclusions

The formation and functioning of civic energy communities brings benefits resulting from the use of dormant resources. The initiative minimizes energy losses during long-distance transmission. It also creates greater energy independence for communities vulnerable to price changes and system failures. Membership in the civic energy community is also supposed to contribute to greater electricity already at the household level, and this is due to lower energy supply prices, as well as reduced energy consumption.