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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 561

Adopted 2 September 2020

**Regulations Regarding the Generation, Supervision, and Pricing of Electricity in Generation of Electricity in Cogeneration**

*Issued pursuant to*

*Section 28, Paragraph two, Section 28.1, Paragraph two, Section 30.4, Paragraph three, Section 31.1, Paragraph nine, Section 31.2, Paragraphs three and five, Section 31.3, Paragraph three, Section 31.4, Paragraph four, and Section 31.5, Paragraph three of the Electricity Market Law*

[*8 March 2022*]

**I. General Provisions**

1. The Regulation prescribes:

1.1. the criteria for the qualification of cogeneration plants for acquiring the right to the mandatory procurement of electricity generated;

1.2. the procedures for the mandatory procurement and the supervision thereof;

1.3. the procedures for determining the price of electricity depending on the electric capacity of a cogeneration plant and the fuel used;

1.4. the procedures for covering the mandatory procurement costs;

1.5. the procedures for waiving the right to sell the generated electricity within the scope of the mandatory procurement (hereinafter – the right to the mandatory procurement);

1.6. the criteria for the qualification of cogeneration plants for acquiring the right to the guaranteed payment for the electric capacity installed in a cogeneration plant (hereinafter – the right to the guaranteed payment);

1.7. the procedures for determining the payment for the installed electric capacity depending on the generation technology and the fuel used, the installed electric capacity of a cogeneration plant, and the procedures for making such payment;

1.8. the procedures by which one may waive the right to the guaranteed payment for the electric capacity installed in a cogeneration plant;

1.9. the procedures by which the disbursement of the State aid shall be suspended;

1.10. violations for which the right to the mandatory procurement or the right to the guaranteed payment shall be revoked, and also the procedures for revoking such right;

1.11. the procedures by which the State Construction Control Bureau (hereinafter – the Bureau) shall inspect the use of the useful heat in order to ensure the conformity with the conditions for the receipt of the State aid laid down in laws and regulations;

1.12. the conditions and methodology for the recovery of the State aid received without justification or in an unlawful manner for the generation of electricity in cogeneration;

1.13. the procedures and conditions for making the calculations referred to in Section 31.4, Paragraphs one and two of the Electricity Market Law;

1.14. the conditions and procedures for the application of the principle of the uniform technological cycle of the operation of the power plant;

1.15. the procedures by which the disbursement of the State aid shall be suspended and the Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment.

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2. This Regulation shall apply to a merchant who:

2.1. has applied for the right to the mandatory procurement or the right to the guaranteed payment by submitting an application for the acquisition of the right to the mandatory procurement or the right to the guaranteed payment in accordance with the regulatory framework in force at the time of submitting the application;

2.2. has obtained the right to the mandatory procurement or the right to the guaranteed payment if the Ministry of Economics (hereinafter – the Ministry) has taken the decision to grant the right to the mandatory procurement or the right to the guaranteed payment;

2.3. exercises the right to the mandatory procurement or the right to the guaranteed payment on the basis of a contract entered into between the merchant and a public trader, taking into account the decision taken in Sub-paragraph 2.2 of this Regulation and amendments thereto.

3. The Bureau shall organise the supervision and control of the activities of electricity producers exercising the right to the mandatory procurement or the right to the guaranteed payment. The Bureau has the right to amend or revoke the decision referred to in Sub-paragraph 2.2 of this Regulation, and also to take decisions to suspend the disbursement of the State aid and the mandatory procurement and to recover the State aid received without justification or in an unlawful manner. When taking a decision within the scope of the supervision or control of the mandatory procurement or the guaranteed payment, the Bureau shall immediately inform thereof the electricity system operator and the public trader.

4. The justification and compliance of the formulae included in this Regulation with the situation in the electricity market may be reviewed and, in case of non-compliance, amended in accordance with the procedures laid down in laws and regulations.

**II. Conditions for Exercising the Right to the Mandatory Procurement or the Right to the Guaranteed Payment**

5. Prior to entering into the contract referred to in Sub-paragraph 2.3 of this Regulation, the merchant shall submit one copy of the decision referred to in Sub-paragraph 2.2 of this Regulation to the public trader. The date of entry into effect of the contract is the date on which the cogeneration plant or the installation of such cogeneration plant is put into operation and the act of the system operator on recognition of the cogeneration plant or the installation of such cogeneration plant to be valid for parallel work with the system is received.

6. The total (gross) electric capacity of a cogeneration unit or several cogeneration units of a cogeneration plant is determined in accordance with the technical documentation of the cogeneration plant.

7. The merchant which has the right to the mandatory procurement shall ensure that its cogeneration plant concurrently generates electricity and thermal energy, using one or more of the following production technologies:

7.1. a combined cycle gas turbine with heat recovery;

7.2. a steam condensing extraction turbine with a steam discharge pipeline for heat supply;

7.3. a steam backpressure turbine;

7.4. a gas turbine with heat recovery;

7.5. an internal combustion engine;

7.6. micro-turbines;

7.7. Stirling engines;

7.8. fuel cells;

7.9. steam engines;

7.10. organic Rankine cycle;

7.11. other technologies or combinations thereof if by using them it is possible to generate electricity and thermal energy concurrently.

8. A cogeneration plant shall conform to the efficiency criteria if the calculated primary energy savings are:

8.1. above 1 % for a cogeneration plant with an installed electricity generation capacity not exceeding one megawatt;

8.2. not less than 10 % for other cogeneration plants.

9. In order to determine the efficiency of a cogeneration plant, the primary energy savings (PES) which are obtained when the cogeneration plant generates energy in cogeneration shall be calculated. The following formula shall be used for the calculations:

Diagram

Description automatically generated where

*ηelCHP* – the electric efficiency coefficient of cogeneration units installed in a cogeneration plant within a certain period of time which is calculated, using the formula referred to in Paragraph 10 of this Regulation;

*ηthCHP* – the heat efficiency coefficient of cogeneration units installed in a cogeneration plant within a certain period of time which is calculated, using the formula referred to in Paragraph 11 of this Regulation;

*ηthref* – the efficiency coefficient for an individual production of thermal energy depending on the type of fuel used (Annex 1);

*ηelref* – the efficiency coefficient for an individual generation of electricity depending on the type of fuel used (if firewood or biogas is used in a cogeneration plant, *ηelref = ηelharm* shall be assumed) which is calculated, using the following formula:

*ηelref = ηelharm* × (*epašp* × *zpašp* + (1– *epašp*) × *znod*) where

*ηelharm* – the harmonised efficiency coefficient with a climate correction for an individual generation of electricity depending on the fuel used and the year in which the cogeneration plant was put into operation (Annex 1);

*epašp* – the own consumption coefficient of a cogeneration plant which is calculated by dividing the annual amount of electricity consumed by a cogeneration plant with the annual amount of electricity generated in a cogeneration plant;

*zpašp* – the correction coefficient for avoided grid losses in relation to electricity that is consumed in a cogeneration plant (Annex 2);

*znod* – the correction coefficient for avoided grid losses in relation to electricity that is transferred into the grid (Annex 2).

10. The electrical efficiency coefficient of cogeneration units installed in a cogeneration plant within a certain period of time which is not less than a month shall be calculated, using the following formula:

|  |  |
| --- | --- |
| Timeline  Description automatically generated with medium confidence | where |

ECHP – the amount of electricity generated in cogeneration units installed in a cogeneration plant within the relevant period of time which is not less than a month (MWh);

B – the total amount of fuel consumed for the generation of electricity and useful heat in the cogeneration units installed in a cogeneration plant within the relevant period of time which is not less than a month (MWh).

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11. The heat efficiency coefficient of cogeneration units installed in a cogeneration plant within a certain period of time which is not less than a month shall be calculated, using the following formula:

|  |  |
| --- | --- |
| Attēls, kurā ir teksts  Apraksts ģenerēts automātiski | where |

QCHP – the amount of the useful heat produced in cogeneration units installed in a cogeneration plant within the relevant period of time which is not less than a month (MWh);

B – the total amount of fuel consumed for the generation of electricity and useful heat in the cogeneration units installed in a cogeneration plant within the relevant period of time which is not less than a month (MWh).

[*8 March 2022*]

12. The merchant which has the right to the guaranteed payment shall ensure that a cogeneration plant or an individual cogeneration unit of such power plant with the installed electric capacity of 20 MW and more concurrently generates electricity and useful heat, using one or several of the following production technologies:

12.1. a combined cycle gas turbine with heat recovery;

12.2. a steam condensing extraction turbine with a steam discharge pipeline for heat supply;

12.3. a steam backpressure turbine;

12.4. a gas turbine with heat recovery;

12.5. other technologies or combinations thereof if by using them it is possible to produce electricity and useful heat concurrently.

13. The merchant which has the right to the guaranteed payment shall receive the payment for the electric capacity installed in a cogeneration plant or an individual cogeneration unit of the power plant if the following criteria are fulfilled:

13.1. the primary resource savings of the cogeneration plant or an individual cogeneration unit of such power plant, calculated in accordance with Paragraph 9 of this Regulation, are not less than 10 %;

13.2. the number of hours of use of the electric capacity installed in the cogeneration plant or an individual cogeneration unit of such power plant in a year (TMAX) exceeds 3000 hours. For cogeneration plants which are located in the licensing zone of a heating system operator, belong to one merchant and are connected to an electricity transmission system and included in the dispatch control schedule, the number of hours of use of the installed electric capacity in a year shall be determined by summing up. The merchant shall inform the Bureau in writing of the conformity with the conditions referred to in this Paragraph.

14. In order to determine the number of hours of use of the electric capacity installed in a cogeneration plant or in an individual cogeneration unit of such power plant, the following formula shall be used:

|  |  |  |
| --- | --- | --- |
| TMAX = | E | where |
| P |

E – the amount of electricity produced in the cogeneration plant or in the individual cogeneration unit of such power plant in a year (MWh);

P – the electric capacity installed in the power plant which conforms to the gross amount of capacity specified by the producer of the installations generating electricity installed in a cogeneration plant (MW).

15. The merchant which has the right to the mandatory procurement or the right to the guaranteed payment and which wishes to change the amount of the installed capacity shall submit the application for assessing the conformity with the efficiency criteria referred to in Paragraph 8 or 13 of this Regulation after changes in the installed capacity.

16. The merchant which has the right to the mandatory procurement or the right to the guaranteed payment and which uses the solid biomass to generate electricity at the cogeneration plant may apply to the Bureau for a permit to replace all or part of solid biomass fuel specified in the application referred to in Sub-paragraph 2.1 of this Regulation with another solid biomass fuel. In such case, the merchant shall submit an application to the Bureau containing information on the intended replacement of the solid biomass fuel, justifying the replacement of the fuel. After receipt of the application, the Bureau shall assess the conformity of the solid biomass fuel specified in the application with the requirements of this Regulation. If the solid biomass fuel specified in the application of the merchant conforms to the abovementioned requirements, the Bureau shall take a decision by which the decision referred to in Sub-paragraph 2.2 of this Regulation is amended, determining the change of the type of the solid biomass fuel.

**III. Exercising the Right to the Mandatory Procurement and the Right to the Guaranteed Payment**

17. The merchant has the right to the mandatory procurement for such amount of electricity for which the decision referred to in Sub-paragraph 2.2 of this Regulation was taken or the decision by which the relevant decision was amended.

18. The right to the mandatory procurement or the right to the guaranteed payment obtained by the merchant shall not be transferable to another person, sold, given as a gift, or otherwise alienated.

19. The merchant is entitled to waive the right to the mandatory procurement by submitting the relevant application to the Bureau. The Bureau shall, within a month after receipt of the application, take the decision to revoke the right to the mandatory procurement.

20. The public trader shall suspend the procurement of electricity within the scope of the mandatory procurement or payments for the installed capacity from the date when, in accordance with the decision of the Bureau referred to in Paragraph 19 of this Regulation, the right to the mandatory procurement or the right to the guaranteed payment of the merchant has been revoked.

21. The merchant which has the right to the mandatory procurement or the right to the guaranteed payment shall ensure the following:

21.1. meters for the power commercial accounting for the electricity generated and transferred to and from the network of the electricity system operator (hereinafter – the system operator) installed in the cogeneration plant and cogeneration units installed therein conform to the laws and regulations regarding uniformity of measurements;

21.2. equipping of the cogeneration plant with thermal energy metering equipment or a system of metering equipment conforming to the laws and regulations regarding uniformity of measurements and shall ensure separate accounting of the thermal energy generated and usefully used in a cogeneration plant, separate thermal energy generating boilers or by other means;

21.3. accounting of the fuel, including biogas, used in the cogeneration plant;

21.4. the thermal energy produced in the cogeneration plant is used efficiently, including that the total amount of the useful heat does not include thermal energy used for self-consumption of the cogeneration plant. The following is regarded as efficiently used thermal energy:

21.4.1. in biogas cogeneration plants (except for the plants referred to in Sub-paragraph 21.4.2 of this Regulation) – also thermal energy used for the technological needs of biogas production, but not more than 20 % of the amount of thermal energy produced in the cogeneration unit during the period of time for the settlement of accounts from 1 April to 31 October of the current year and not more than in the amount of 40 % of the thermal energy produced in the cogeneration unit during the period of time for the settlement of accounts from 1 November to 31 March of the current year;

21.4.2. in biogas cogeneration plants using landfill gas as fuel – all the thermal energy produced, provided that the amount of thermal energy remaining after the use of the thermal energy for the technological needs of biogas production exceeds 30 % of the amount of the thermal energy produced;

21.5. the accounting of raw materials used for the production of biogas;

21.6. records of electricity, thermal energy, and fuel are kept for the current and previous calendar year on site at the cogeneration plant and they are presented to the representatives of the Bureau at the time of the inspection;

21.7. equipping of a biogas cogeneration plant with thermal energy metering equipment or a system of metering equipment conforming to the laws and regulations regarding uniformity of measurements and separate accounting of the fuel used in the cogeneration unit.

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22. The merchant shall ensure that the electricity, thermal energy, and fuel supply connection scheme is prepared according to the principle of the uniform technological cycle, submitted to the Bureau, and displayed in a clearly visible place in the room where the cogeneration unit is located or affixed on the container in which the cogeneration unit is located. If changes to the electricity, thermal energy, and fuel connection scheme are made, the merchant shall inform the Bureau thereof before the changes take effect by submitting the updated scheme to the Bureau.

[*8 March 2022*]

23. In the principal scheme of electric connection of the cogeneration plant, the merchant shall indicate all the equipment and devices included in the aggregate of objects of the cogeneration plant according to the principle of the uniform technological cycle, including the fuel preparation equipment and auxiliary equipment used for their operation, and the metering equipment referred to in Sub-paragraph 21.1 of this Regulation, infrastructure objects for the supply of energy sources used in production, the removal of waste gases, infrastructure objects for the transfer of the produced electricity and thermal energy, and other infrastructure objects, and also their connection points to the network of the system operator which sets the borders of the cogeneration plant.

[*8 March 2022*]

23.1 In the scheme of heat supply of the cogeneration plant, the merchant shall indicate the equipment and devices located in the cogeneration plant according to the principle of the uniform technological cycle, the metering equipment or systems of metering equipment referred to in Sub-paragraph 21.2 of this Regulation and indicate the borders of the cogeneration plant. In the fuel supply scheme of the cogeneration plant, the merchant shall indicate the equipment and devices according to the principle of the uniform technological cycle, and also the metering equipment used for the accounting of the fuel referred to in Sub-paragraph 21.3 of this Regulation, and shall indicate the borders of the cogeneration plant.

[*8 March 2022*]

24. The merchant who has obtained the right to the mandatory procurement shall submit to the system operator, the public trader, and the Bureau the principal scheme of electric connection referred to in Paragraph 23 of this Regulation and certified by the merchant. The public trader shall, after the entry into effect of the contract referred to in Sub-paragraph 2.3 of this Regulation, start the procurement of the electricity generated at the power plant if the merchant has submitted the principal scheme of electric connection referred to in Paragraph 23 of this Regulation to the system operator, the public trader, and the Bureau. If changes to the power plant are made, the merchant shall ensure that the principal scheme of electric connection referred to in Paragraph 23 of this Regulation, certified by the merchant, and corresponding to the actual situation is submitted to the system operator, the public trader, and the Bureau.

25. The public trader shall purchase from the merchant which has the right to the mandatory procurement only the surplus of electricity generated in cogeneration which remains after electricity has been used to ensure the operation of the cogeneration plant in accordance with the principal scheme of electric connection of the cogeneration plant referred to in Paragraph 23 of this Regulation. The remaining amount of electricity shall be calculated in accordance with the procedures referred to in Paragraph 26 of this Regulation.

25.1 If the data provided by the merchant according to the calculations of the Bureau show that the self-consumption amount of electricity is lower than possible for the relevant technology according to the principle of the uniform technological cycle or the submitted up-to-date electricity, thermal energy, and fuel supply connection schemes, the Bureau shall, within three working days after this fact is established, take the decision to suspend the disbursement of the State aid for the purchased electricity for the period from the date of entry into effect of the decision until the date of taking the decision referred to in Paragraph 25.2 of this Regulation.

[*8 March 2022*]

25.2 In order to resume disbursement of the State aid suspended in accordance with Paragraph 25.1 of this Regulation, the merchant shall, within one month from the date of entry into effect of the decision to suspend disbursement of the State aid for the purchased electricity, prove that the use of electricity produced at the cogeneration plant is ensured in accordance with the condition referred to in Paragraph 25 of this Regulation. The Bureau shall ascertain that the information provided by the merchant demonstrates conformity with the condition referred to in Paragraph 25 of this Regulation and, within a month, shall take the decision to resume the disbursement of the suspended State aid. The public trader shall disburse the suspended State aid within 10 calendar days after the date of entry into effect of the abovementioned decision.

[*8 March 2022*]

25.3 If the merchant fails to submit the abovementioned evidence within the time period referred to in Paragraph 25.2 of this Regulation or if, upon receipt of the evidence, the Bureau determines that the use of electricity generated at the cogeneration plant is not ensured in accordance with the condition referred to in Paragraph 25 of this Regulation, the Bureau shall take the decision to revoke the right to the mandatory procurement in accordance with Sub-paragraph 48.8 of this Regulation.

[*8 March 2022*]

26. During the period of time for the settlement of accounts, the amount of the electricity generated in cogeneration which remains after electricity has been used for the operation of the cogeneration plant in accordance with the principal scheme of electric connection referred to in Paragraph 23 of this Regulation shall be determined as follows:

26.1. the actual total efficiency coefficient of the energy production of the cogeneration plant shall be calculated, using the following formula:

|  |  |  |
| --- | --- | --- |
| *ηfaktCHP* = | *Ernp* + *Qnp* | *× 100 %* where |
| *Bnp* |

*Ernp* – the amount of electricity generated in the cogeneration units installed in a cogeneration plant during the period of time for the settlement of accounts which is determined according to the readings of the meters at the generator output (MWh);

*Qnp* – the amount of the useful heat (MWh) marketed by a cogeneration plant during the period of time for the settlement of accounts;

*Bnp* – the amount of the fuel consumed in cogeneration units installed in a cogeneration plant during the period of time for the settlement of accounts (MWh);

26.2. it shall be assumed that the amount of electricity generated in cogeneration remaining after the use of electricity for the operation of the cogeneration plant during the period of time for the settlement of accounts is equal to the amount of electricity transferred to the electricity network of the system operator or the calculated amount of electricity in the case referred to in Sub-paragraph 26.4 of this Regulation if one of the following conditions is met:

26.2.1. the total actual efficiency coefficient of energy production, which is calculated in accordance with Sub-paragraph 26.1 of this Regulation, for the cogeneration plant in which the technology referred to in Sub-paragraph 7.1 or 7.2 of this Regulation is used is 80 % or more;

26.2.2. the total actual efficiency coefficient of energy generation, which is calculated in accordance with Sub-paragraph 26.1 of this Regulation, for the cogeneration plant in which any of the technologies referred to in Sub-paragraph 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, or 7.11 of this Regulation is used is 75% or more;

26.3. if the total actual efficiency coefficient of the cogeneration plant calculated in accordance with Sub-paragraph 26.1 of this Regulation is less than the values referred to in Sub-paragraph 26.2.1 or 26.2.2 of this Regulation, the amount of electricity generated in cogeneration remaining after the use thereof for ensuring the operation of the cogeneration plant shall be calculated, using the following formula:

EnpCHP = Qnp x α where

α – the ratio between the installed electrical capacity and the thermal capacity of the cogeneration units installed in a cogeneration plant according to the technical passport data, provided that the maximum permissible value of *α* for this calculation is equal to 1.5. If such data are not available, the abovementioned value shall be determined depending on the cogeneration technology used in accordance with Annex 3 to this Regulation;

26.4. if a cogeneration plant which sells the generated electricity within the scope of the mandatory procurement has multiple connections to the network of the system operator, such amount of electricity shall be calculated in each hour which is represented by the difference between the electricity transferred to the network of the system operator and the electricity received from the network of the system operator within all system connections in accordance with the principal scheme of electric connection referred to in Paragraph 23 of this Regulation.

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27. The merchant shall sell the amount of electricity which, in accordance with Paragraph 26 of this Regulation, is not recognised as being generated in cogeneration to the public trader for the agreement price.

28. During the period when the electricity generated in the cogeneration plant is less than consumed for ensuring the operation thereof, or is not generated at all, it shall purchase electricity from a trader in accordance with the conditions of the laws and regulations governing the trade of electricity.

29. If the electric capacity installed in the cogeneration plant of the merchant specified in the contract referred to in Sub-paragraph 2.3 of this Regulation is lower at the end of the previous calendar year than the planned electric capacity of the cogeneration plant specified in the application referred to in Sub-paragraph 2.1 of this Regulation, the Bureau shall take a decision by 1 April of the relevant year whereby the amount of electricity to be purchased within the scope of the mandatory procurement for the calendar year is amended. The amount of electricity to be purchased within the scope of the mandatory procurement shall be (indicated with accuracy of three decimal places) calculated, using the following formula:

|  |  |  |
| --- | --- | --- |
| *AOI* = | Ap | × *Pf* where |
| *Pp* |

AOI – the amount of electricity (MWh) to be purchased within the scope of the mandatory procurement in a calendar year;

Ap – the amount of electricity (MWh) to be purchased within the scope of the mandatory procurement in a calendar year as specified in the decision referred to in Sub-paragraph 2.2 of this Regulation;

Pp – the planned electric capacity (MW) of the cogeneration plant as specified in the application referred to in Sub-paragraph 2.1 of this Regulation;

Pf – the installed electric capacity (MW) of the cogeneration plant as specified in the contract referred to in Sub-paragraph 2.3 of this Regulation at the end of the reporting year.

30. The decision referred to in Paragraph 29 of this Regulation shall be taken by the Bureau if the amount calculated, using the formula referred to in Paragraph 29 of this Regulation, is less than the amount of electricity (MWh) to be purchased from the cogeneration plant within the scope of the mandatory procurement in a calendar year.

31. The costs of the mandatory procurement and the costs of payments for the installed electric capacity shall be covered by all electricity end users of Latvia in accordance with the mandatory procurement and capacity components determined by the Public Utilities Commission (hereinafter – the regulator) from cogeneration power plants by making a payment to the relevant electricity transmission or distribution system operator together with the payment for the service of transmission or distribution. The system operator in each settlement period shall record the components of the mandatory procurement and capacity components conforming to the consumption of electricity by end users connected to the system thereof, the level of voltage and requested capacity, provide the necessary information to the public trader for the performance of the settlement of payments and shall settle payments with the public trader for the components of the mandatory procurement and capacity components conforming to the consumption of electricity by end users connected to the system thereof, the level of voltage and requested capacity.

31.1 The merchant which has the right to the mandatory procurement or the right to the guaranteed payment shall register the electricity generation equipment installed in the cogeneration plant in the register of guarantee of origin maintained by the transmission system operator, indicating the public trader as the recipient of the guarantee of origin.

[*8 March 2022*]

31.2 The merchant which has the right to the mandatory procurement or the right to the guaranteed payment and the cogeneration plant of which is registered in the register of guarantee of origin maintained by the transmission system operator and which uses energy resources other than renewable energy resources for the generation of electricity in cogeneration shall submit to the transmission system operator and the public trader a declaration of compliance with the conditions for issuing the guarantees of origin, certified by an independent accredited auditor, in accordance with the requirements laid down in the contract entered into between the transmission system operator and the European Energy Certificate System operator, not later than within five months after the start of the declaration period which shall be one calendar month.

[*8 March 2022*]

31.3 If the performance indicators of the cogeneration plant in any of the declaration periods referred to in Paragraph 31.2 of this Regulation do not conform to the conditions for issuing the guarantees of origin in accordance with the requirements laid down in the contract entered into between the transmission system operator and the European Energy Certificate System operator, the merchant need not submit the declaration referred to in Paragraph 31.2 of this Regulation, while at the same time, not later than five months after the start of the declaration period, which shall be one calendar month, submitting the relevant certification of the authorised person of the merchant to the transmission system operator, the public trader, and the Bureau, indicating the period for which no declaration is provided and the primary energy savings of the relevant cogeneration plant calculated in accordance with the procedures laid down in laws and regulations.

[*8 March 2022*]

31.4 The merchant which has the right to the mandatory procurement or the right to the guaranteed payment and the electricity generation equipment installed in the cogeneration plant of which is registered in the register of guarantee of origin maintained by the transmission system operator and in the cogeneration plant of which several types of the fuel are used for the generation of electricity and are registered in the European Energy Certificate System shall submit to the transmission system operator and the public trader a mixed energy resource unit declaration certified by an independent accredited auditor not later than five months after the start of the declaration period which shall be one calendar month.

[*8 March 2022*]

31.5 The merchant which has the right to the mandatory procurement or the right to the guaranteed payment shall submit to the transmission system operator the information necessary for issuing the guarantees of origin for the electricity generated.

[*8 March 2022*]

31.6 The Bureau shall confirm the information at its disposal on the electricity generation equipment installed in the cogeneration plants and necessary for issuing the guarantee of origin for the electricity generated and shall forward it to the transmission system operator.

[*8 March 2022*]

**IV. Supervision of Exercising the Right to the Mandatory Procurement and the Right to the Guaranteed Payment**

32. The merchant which has the right to the mandatory procurement or the right to the guaranteed payment shall, by 1 March of each year, submit to the Bureau a report on the operation of the cogeneration plant in the ownership or use thereof in accordance with Annex 4 to this Regulation. The report shall be submitted in the electronic system which is intended for the submission of annual reports of power plants. The system operator shall, upon request of the Bureau, submit data on the amount of the electricity transferred to and received from the network by the merchant, including data on the amount of the abovementioned electricity at the electricity connection points directly or indirectly connected to the power plant and its equipment and devices according to the principle of the uniform technological cycle. The public trader shall, upon request of the Bureau, submit data on the amount of electricity sold by the merchant within the scope of the mandatory procurement in the previous year. The following shall be included in the report:

32.1. data on the operation of the cogeneration plant – electricity generated, electricity consumed at the cogeneration plant, cogeneration plant technology used, raw materials used for biogas production, their volume and documents justifying the origin and volume of raw materials, total installed electrical and thermal capacity, documents justifying the efficient use of thermal energy, a description and calculation of the determination of the calorific value of the fuel used, a description of the determination of the volume of fuel used and an explanatory memorandum on the changes made to the power plant during the reporting year if such changes affect the data to be included in the annual report, including the elements of the cogeneration plant affected by the relevant changes;

32.2. a report by an accredited body (hereinafter – the auditor) on the thermal energy produced, useful heat, and fuel consumed, including the proportion of raw materials, in accordance with Paragraphs 73 and 75 of this Regulation, indicating the conformity of the cogeneration plant with the abovementioned criteria, and also a detailed report prepared by the abovementioned auditor on the conformity and validity of the information provided in the annual report of the biomass or biogas cogeneration plant, and also on the activities carried out and documents verified, including a list indicating the numbers and dates of verification or calibration of the measuring equipment referred to in Paragraph 21 of this Regulation;

32.3. documents justifying the efficient use of thermal energy;

32.4. a copy of the decision of the regulator on the tariff for thermal energy (if the tariff for thermal energy has been approved by the regulator);

32.5. information on the depreciation of the fixed assets of the power plant.

[*8 March 2022*]

33. The auditor referred to in Sub-paragraph 32.2 of this Regulation shall be a legal person accredited by the national accreditation body acting as an independent inspection authority of the third party in accordance with the laws and regulations regarding evaluation, accreditation, and supervision of conformity assessment bodies.

[*8 March 2022*]

34. The Bureau shall, within one month, send a warning to the merchant which has not submitted the annual report referred to in Paragraph 32 of this Regulation by 1 March of the possible loss of the right to the mandatory procurement or the right to the guaranteed payment. If the merchant fails to submit the annual report within two months after receipt of the warning referred to in this Paragraph, the Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant and the decision by which the merchant is required, within one month, to reimburse the State aid received without justification or in an unlawful manner to the public trader.

[*8 March 2022*]

35. In order to verify the compliance of the information provided in the report referred to in Paragraph 32 of this Regulation with the requirements of this Regulation, the Bureau is entitled to request the merchant to submit additional information and explanations. The merchant has the obligation to submit the requested information within 10 working days after receipt of the request of the Bureau. If the merchant fails to provide the requested information within 10 working days, the Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant.

35.1 The merchant has the obligation to keep the documents relating to the receipt of the State aid for the entire period of the State aid for at least 10 years after the end of the period of the State aid. This period shall be counted from the date on which the merchant received the last payment of the State aid.

[*8 March 2022*]

35.2 The grantor of aid referred to in the Law on Control of Aid for Commercial Activity shall keep the documents relating to the provision of the State aid for 10 years after the end of the total period of the State aid. This period shall be counted from the date of expiry of disbursement of the State aid to the last recipient of the State aid.

[*8 March 2022*]

36. In order to verify whether the data provided by the merchant which has the right to the mandatory procurement or the right to the guaranteed payment are correct, the Bureau has the right to request information from the person who, according to the data provided by the merchant, has purchased thermal energy, and the abovementioned person has the obligation to provide such information.

37. The Bureau shall maintain a database listing all the decisions referred to in Sub-paragraph 2.2 of this Regulation. The Bureau shall publish the following on its website:

37.1. a list of all decisions in effect according to which the right to the mandatory procurement or the right to the guaranteed payment has been granted to the merchant, indicating the date of the decisions, the name of the merchant, the type of the power plant, the installed capacity, and the annual amount of electricity that the merchant is entitled to sell within the scope of the right to the mandatory procurement;

37.2. by 1 March of each year, the total amount of aid disbursed by months in the previous year which has been disbursed to the merchant in the previous year within the scope of the mandatory procurement of electricity, the amount of aid by months above the electricity market price, the name of the merchant, the type of the power plant, the installed capacity, and the amount of electricity purchased within the scope of the mandatory procurement by months;

37.3. by 1 September of each year, the amount by months disbursed to the merchant within the scope of the mandatory procurement of electricity until 30 June of the current year, the amount of aid by months above the electricity market price, the name of the merchant, the type of the power plant, the installed capacity, and the amount of electricity purchased within the scope of the mandatory procurement by months and the total amount of the disbursed aid.

38. The public trader shall submit the information referred to in Sub-paragraph 37.2 of this Regulation to the Bureau by 15 February of each year but the information referred to in Sub-paragraph 37.3 of this Regulation by 15 August of each year.

39. Within three months after receipt of the report referred to in Paragraph 32 of this Regulation, the Bureau shall assess the conformity of the cogeneration plant with the efficiency criteria referred to in Paragraphs 8 and 13 of this Regulation and the use of the generated electricity for ensuring the operation of the cogeneration plant in accordance with the requirements of this Regulation. If the amount of electricity transferred to the network of the cogeneration plant is equal to the amount of electricity generated, the Bureau shall take the decision to revoke the right to the mandatory procurement.

[*8 March 2022*]

40. The regulator shall control the conformity of the operation of the cogeneration plant in accordance with the laws and regulations in the field of the provision of public utilities, the system operator – the condition of meters for the power commercial accounting installed at the proprietary border of electrical installations and the amount of capacity transferred to the system, whereas the heating system operator – the condition of meters for the thermal energy commercial accounting.

41. The Bureau shall, on a quarterly basis, verify whether the merchant has any debts of taxes and fees administered by the State Revenue Service. If the Bureau establishes that the merchant has debts of taxes or fees exceeding EUR 150, the Bureau shall send the merchant a warning of the possible loss of the right to the mandatory procurement. The Bureau shall, in the course of the abovementioned verification, check with the insolvency register whether the merchant which has debts of taxes or fees has been subject to initiation of legal protection proceedings. The warning referred to in this Paragraph shall not be issued to the merchant if the total amount of tax debts of the merchant exceeds EUR 150 but legal protection proceedings have been initiated in respect of such debts in the period from the initiation of legal protection proceedings and the termination of the proceedings.

42. [8 March 2022]

43. If a public trader has information at its disposal on possible non-conformity of a cogeneration plant with the laws and regulations, it shall immediately inform the Bureau thereof. In order to verify the conformity of the cogeneration plant, the Bureau is entitled to request the merchant to submit additional information and explanations. If the merchant fails to provide the requested information within the time period set by the Bureau which shall not be less than 10 working days, the Bureau may decide on revocation of the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant.

[*8 March 2022*]

44. When administering the supervision fee referred to in Section 31.1 of the Electricity Market Law, the Bureau shall check whether the merchant has paid the fee within 10 working days after the time period for the payment of the fee. If the merchant has not paid the supervision fee within the specified time period, the Bureau shall, within five working days after establishing the fact, take the decision to suspend the disbursement of the State aid for electricity purchased or the guaranteed payment for the electric capacity installed in the cogeneration plant for the period after expiry of the time period for the payment of the supervision fee specified in Section 31.1 of the Electricity Market Law. The public trader shall, on the next working day following the entry into effect of the decision until a new decision of the Bureau taken in accordance with Paragraph 45 of this Regulation, suspend the disbursement of the State aid to the merchant for the purchased electricity or the guaranteed payment for the electric capacity installed in the cogeneration plant for the period after expiry of the time period for the payment of the supervision fee specified in Section 31.1 of the Electricity Market Law.

45. If the merchant wishes to resume the disbursement of the State aid suspended in accordance with Paragraph 44 of this Regulation, it shall submit to the Bureau the proof of payment of the supervision fee. The Bureau shall, within three working days, verify the fact of payment of the supervision fee. If the Bureau establishes that the merchant has paid the supervision fee according to the proof provided, the Bureau shall, within five working days of establishing that fact, take the decision to resume the disbursement of the State aid suspended in accordance with Paragraph 44 of this Regulation from the first day of the calendar month after the date of entry into effect of the decision.

46. The Bureau shall verify the compliance of the power plant with the requirements of the laws and regulations and the credibility of the information submitted. The merchant has the obligation to ensure access to the power plant, and also to the fuel preparation equipment and metering equipment if they are located outside the power plant. The merchant has the obligation to provide to the representatives of the Bureau the information necessary for the implementation of supervision of the merchant requested within the scope of the inspection. The information necessary for the preparation of the inspection report referred to in Sub-paragraph 46.7 of this Regulation may be submitted by the merchant to the Bureau within 10 working days after the inspection carried out by the representatives of the Bureau. The representatives of the Bureau and the merchant have the following rights and obligations during the inspection:

46.1. the merchant shall indicate in the report referred to in Paragraph 32 of this Regulation the official electronic address for communication with the Bureau, the contact person (including e-mail address and telephone number) with whom the Bureau may communicate in relation to the inspections planned by the Bureau, and also the contact person (including telephone number) who can provide access to the cogeneration plant to the representatives of the Bureau. The merchant shall inform the Bureau within five working days of any changes in the abovementioned contact details;

46.2. the Bureau is entitled to carry out a planned or unplanned inspection of the power plant;

46.3. the Bureau shall give the merchant a notice of the planned inspection at least three working days in advance. The Bureau shall send the information on the planned inspection to the merchant to the electronic mail addresses referred to in Sub-paragraph 46.1 of this Regulation. If on the date set by the Bureau the merchant is unable to provide the opportunity for the representatives of the Bureau to carry out an inspection the cogeneration plant, the Bureau shall repeatedly set the date for carrying out the inspection not later than three working days after the initially set date;

46.4. if the representatives of the Bureau have arrived at the power plant without prior notice and the merchant is unable to provide them with the opportunity to carry out an inspection the cogeneration plant, the representatives of the Bureau shall arrive at the power plant repeatedly not later than three working days after their first arrival at the cogeneration plant in order to carry out the inspection;

46.4.1 if the merchant has not provided the opportunity for the representatives of the Bureau to carry out an inspection of the cogeneration plant, the Bureau shall immediately take the decision to suspend the disbursement of the State aid for the purchased electricity or the guaranteed payment for the electric capacity installed in the cogeneration plant for the period from the date of entry into effect of the decision until the date of taking the decision referred to in Sub-paragraph 46.8.1 or 46.9 of this Regulation;

46.5. if the merchant repeatedly fails to provide the representatives of the Bureau with the opportunity to carry out an inspection of the cogeneration plant in accordance with Sub-paragraphs 46.3 and 46.4 of this Regulation, the Bureau shall, within a month after the repeatedly set date for the carrying out of an inspection, take the decision to revoke the right to the mandatory procurement granted to the merchant;

46.6. during carrying out the inspection of the cogeneration plant, the representatives of the Bureau are entitled, warning the merchant thereof, to take photos and make video recordings in conformity with the laws and regulations regarding personal data protection;

46.7. within a month after the inspection carried out by the representatives of the Bureau, the Bureau shall prepare an inspection report and send it to the merchant. The findings of the inspection shall be indicated in the inspection report.

46.8. after the repeated inspection referred to in Sub-paragraph 46.3 or 46.4 of this Regulation, depending on the findings of the inspection report referred to in Sub-paragraph 46.7 of this Regulation, the Bureau shall take one of the following actions:

46.8.1. if the Bureau has ascertained that the requirements laid down in this Regulation and in the Electricity Market Law are ensured in the operation of the cogeneration plant, it shall take the decision to resume the disbursement of the State aid suspended in accordance with Sub-paragraph 46.4.1 of this Regulation. The public trader shall disburse the suspended State aid within 10 calendar days after the date of entry into effect of the abovementioned decision;

46.8.2. if the Bureau has established violations of this Regulation or the Electricity Market Law in the operation of the cogeneration plant, it shall issue a warning or take a decision in accordance with the provisions of this Regulation;

46.9. if the Bureau has issued a warning after carrying out the repeated inspection referred to in Sub-paragraph 46.3 or 46.4 of this Regulation and the violation for which the warning was issued has been eliminated, the Bureau shall take the decision to resume the disbursement of the State aid suspended in accordance Sub-paragraph 46.4.1 of this Regulation. The public trader shall disburse the suspended State aid within 10 calendar days after the date of entry into effect of the abovementioned decision.

[*8 March 2022*]

47. The Bureau shall send a warning to the merchant of the possible loss of the right to the mandatory procurement or the right to the guaranteed payment if the Bureau establishes that the cogeneration plant does not conform or has not conformed to one of the following criteria during the annual report period referred to in Paragraph 32 of this Regulation:

47.1. [8 March 2022];

47.2. the electric capacity installed in the cogeneration plant connected to the network of the system operator does not correspond to the capacity specified in the contract referred to in Sub-paragraph 2.3 of this Regulation;

47.3. the merchant has not submitted to the Bureau the certificates of verification for the measuring equipment referred to in Sub-paragraphs 21.1 and 21.2 of this Regulation (except for the commercial meters of the system operator) or the Bureau establishes that the measuring equipment installed in the cogeneration plant does not comply with the requirements referred to in Sub-paragraph 21.1 or 21.2 of this Regulation;

47.4. the cogeneration plant does not conform to the laws and regulations laying down the requirements for the operation of cogeneration plants in the field of energy or such non-compliance with the requirements of this Regulation has been established for which a warning or a decision in accordance with any other Paragraph of this Regulation has not been issued or taken, if such non-compliance may affect the amount of the State aid subject to disbursement;

47.5. [8 March 2022];

47.6. the records for the current and previous calendar year are not available at the cogeneration plant or have not been presented to the representatives of the Bureau at the time of carrying out the inspection;

47.7. the information referred to in Paragraph 74 of this Regulation or the information on the quantity of fuel and useful heat consumed in the cogeneration plant submitted by the merchant to the public trader or the information specified in the annual report referred to in Paragraph 32 of this Regulation does not correspond to the actual situation and such discrepancy of the abovementioned information has affected the amount of the State aid subject to disbursement, thus the public trader has purchased electricity within the scope of the public procurement at a higher price or in a larger amount than it should have.

[*8 March 2022 / See Paragraph 105*]

48. The Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant if:

48.1. it is established that the type of technology or fuel used in the cogeneration plant does not conform to the information specified in the application referred to in Sub-paragraph 2.1 of this Regulation or the fuel used in the power plant does not conform to the decision referred to in Sub-paragraph 2.2 of this Regulation. The Bureau shall take the decision within a month after preparation of the inspection report referred to in Sub-paragraph 46.7 of this Regulation;

48.2. insolvency proceedings of the merchant are declared. The Bureau shall take the decision within five working days after the fact of the declaration of insolvency proceedings of the merchant has been established;

48.3. the generation of electricity has not been commenced within the time period specified in the decision referred to in Sub-paragraph 2.2 of this Regulation;

48.4. the efficient use of thermal energy has not been ensured;

48.5. records of the fuel or the raw materials of the fuel are not kept in accordance with Paragraph 21 of this Regulation or metering equipment or metering systems have not been installed at the cogeneration plant;

48.6. the raw material of the fuel used in the cogeneration plant does not conform to Paragraph 73 of this Regulation;

48.7. [8 March 2022];

48.8. the use of electricity generated by the cogeneration power plant for the operation of the cogeneration power plant is not ensured;

48.9. the cogeneration plant in accordance with the assessment referred to in Paragraph 39 of this Regulation does not conform to the criteria referred to in Paragraph 8 or 13 of this Regulation;

48.10. it is established that the performance indicators of the cogeneration plant for which the certification referred to in Paragraph 31.3 of this Regulation is submitted in the respective period have complied with the conditions for issuing the guarantees of origin in accordance with the requirements laid down in the contract entered into between the transmission system operator and the European Energy Certificate System operator;

48.11. it is established that the merchant has lost the right of ownership or use of the power plant.

[*8 March 2022*]

48.1 If the Bureau establishes any changes in the type of fuel used in the cogeneration plant and the fuel used conforms to the conditions for obtaining and use of the right to the mandatory procurement or the right to the guaranteed payment laid down in this Regulation, but such changes have not been harmonised with the Bureau, the Bureau shall send a warning to the merchant of the possible loss of the right to the mandatory procurement or the right to the guaranteed payment. The merchant shall, within two months after receipt of the warning referred to in this Paragraph, harmonise with the Bureau the changes in the use of the fuel. If the merchant fails to harmonise the abovementioned changes, the Bureau shall, within one month, take the decision to revoke the right to the mandatory procurement or the guaranteed payment.

[*8 March 2022*]

49. In order to ascertain that the thermal energy generated by the cogeneration plant is used efficiently according to the principle of the uniform technological cycle, the Bureau shall:

49.1. assess whether the documents attached by the merchant to the annual report specified in Paragraph 32 of this Regulation prove that the useful heat is sold to a heat consumer or used for ensuring heating, ventilation, hot water supply, or technological heat consumption in its own undertaking which is not the self-consumption of the cogeneration plant;

49.2. verify the accuracy of the documents referred to in Sub-paragraph 49.1 of this Regulation, and also whether the thermal energy produced in the power plant has been used to meet an economically justified demand for heating or cooling.

[*8 March 2022*]

49.1 If the Bureau establishes that several power plants in respect of which the merchant or merchants have valid right to the mandatory procurement or the right to the guaranteed payment are regarded as one power plant according to the principle of the uniform technological cycle, but they operate as several separate power plants, the Bureau shall, within 10 working days after the establishment of this fact, take the decision to suspend the State aid for the purchased electricity or the guaranteed payment for the electric power installed in the power plant for the period from the date of entry into effect of the decision until the date of taking the decision referred to in Sub-paragraph 49.21 or Paragraph 49.3 of this Regulation.

[*8 March 2022*]

49.2 If the merchant submits to the Bureau documents proving that the power plant complies with the principle of the uniform technological cycle, and also the principal scheme of electric connection referred to in Paragraph 23 of this Regulation, the Bureau shall verify the conformity of the power plant with the principle of the uniform technological cycle and within one month:

49.21. upon establishing that the non-conformity with the principle of the uniform technological cycle has been eliminated, take the decision to resume the State aid suspended in accordance with Paragraph 49.1 of this Regulation. The public trader shall resume the suspended State aid from the date of entry into effect of the abovementioned decision or, if the non-conformity has been eliminated by merging the power plants in accordance with Paragraph 49.5 of this Regulation, from the date of entry into effect of the amendments to the decision referred to in Paragraph 49.5 of this Regulation;

49.22. if it is established that the non-conformity with the principle of the uniform technological cycle has not been eliminated, the merchant shall be informed thereof and the State aid suspended in accordance with Paragraph 49.1 of this Regulation shall not be resumed.

[*8 March 2022*]

49.3 If the merchant fails to submit to the Bureau, within six months from the date of entry into effect of the decision referred to in Paragraph 49.1 of this Regulation, documents proving that the non-conformity for which the decision referred to in Paragraph 49.1 of this Regulation was taken has been eliminated, the Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment.

[*8 March 2022*]

49.4 In order to eliminate the non-conformity with the principle of the uniform technological cycle referred to in Paragraph 49.1 of this Regulation, merchants are entitled to merge power plants and merchants and to transfer the right to the mandatory procurement or the right to the guaranteed payment to one of the merging merchants. In such case, the amount of electricity and the entire amount of capacity for which the guaranteed payment is made and to be purchased within the scope of the mandatory procurement of all the merging power plants referred to in Sub-paragraph 2.2 of this Regulation shall be added to the amount of the power plant with the longest remaining period of the State aid of all the merged power plants (hereinafter – the merging power plant).

[*8 March 2022*]

49.5 The merchant which is the owner of the merging power plant shall submit to the Bureau the documents proving the merger and the principal scheme of electric connection of the power plant referred to in Paragraph 23 of this Regulation. The Bureau shall, after the merger of the power plants, make amendments to the decision referred to in Sub-paragraph 2.2 of this Regulation which was taken in respect of the merging power plant, determining the amount of electricity to be purchased within the scope of the mandatory procurement according to the time periods for receipt of the State aid resulting from the commencement of sales of the determined amounts of electricity within the scope of the mandatory procurement, the measurement points for the calculation of the electricity to be purchased within the scope of the mandatory procurement applicable to the connection points to the networks of the system operator and the total installed electrical capacity, and also changes in all these values during the remaining period of the State aid in accordance with the right to the mandatory procurement or the right to the guaranteed payment granted to the merged power plants. The Bureau shall at the same time revoke the decisions referred to in Sub-paragraph 2.2 of this Regulation taken in respect of the power plants which, following the merger, cease to exist as separate power plants.

[*8 March 2022*]

49.6 If the non-conformity referred to in Paragraph 49.1 of this Regulation has been established by the Bureau in respect of the merchant referred to in Paragraph 49.5 of this Regulation to which the rights have been transferred and which combines a power plant the operation of which is governed by this Regulation and a power plant the operation of which is governed by Cabinet Regulation No. 560 of 2 September 2020, Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration, this Regulation shall apply to its further operation from the date of entry into effect of the amendments to the decision referred to in Paragraph 49.5 of this Regulation.

[*8 March 2022*]

50. The Bureau shall, within one month, take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant if the merchant:

50.1. fails to commence generation of electricity in cogeneration within the time period specified in the decision referred to in Sub-paragraph 2.2 of this Regulation;

50.2. fails to obtain the permission of the system operator to connect to the system a cogeneration plant with an electrical capacity of at least 50 % of the planned electrical capacity of the cogeneration plant as specified in the application referred to in Sub-paragraph 2.1 of this Regulation;

50.3. fails to enter into the contract referred to in Sub-paragraph 2.3 of this Regulation with the public trader or the abovementioned contract does not enter into effect within three months from the date of expiry of the time period for commencing generation of electricity in cogeneration as specified in the decision referred to in Sub-paragraph 2.2 of this Regulation.

51. [8 March 2022]

52. Within two months after receipt of the warning referred to in Paragraph 41 of this Regulation, the merchant having the right to the mandatory procurement or the right to the guaranteed payment shall ensure conformity of the cogeneration plant and the merchant with the relevant criteria and shall submit to the Bureau documents proving the relevant conformity.

[*8 March 2022*]

52.1 Within six months after receipt of the warning referred to in Sub-paragraph 47.2 of this Regulation, the merchant having the right to the mandatory procurement or the right to the guaranteed payment shall ensure conformity of the cogeneration plant with the relevant criterion and shall submit to the Bureau documents proving the relevant conformity.

[*8 March 2022*]

52.2 Within four months after receipt of the warning referred to in Sub-paragraph 47.4 of this Regulation, the merchant having the right to the mandatory procurement or the right to the guaranteed payment shall ensure conformity of the power plant with the relevant criterion and shall submit to the Bureau documents proving the relevant conformity.

[*8 March 2022*]

53. Concurrently with the warning referred to in Sub-paragraph 47.3 of this Regulation, the Bureau shall take the decision to suspend the State aid for the purchased electricity or the guaranteed payment for the electric capacity installed in the cogeneration plant for the period from the date of entry into effect of the decision until the date of taking the decision referred to in Paragraph 53.2 of this Regulation, and also the decision by which the merchant is required, within one month, to reimburse to the public trader the State aid received without justification.

[*8 March 2022*]

53.1 In order to resume the State aid suspended in accordance with Paragraph 53 of this Regulation, the merchant shall, within two months after receipt of the warning referred to in Sub-paragraph 47.3 of this Regulation, ensure that the cogeneration plant conforms to the relevant criterion. If the merchant has reimbursed to the public trader the State aid received without justification, the Bureau shall, within one month, take the decision to resume the suspended State aid. The public trader shall resume the suspended State aid from the date of entry into effect of the abovementioned decision.

[*8 March 2022*]

53.2 If the merchant fails to ensure conformity of the cogeneration plant with the relevant criterion or reimbursement of the State aid received without justification to the public trader in accordance with Paragraph 53.1 of this Regulation, the Bureau shall, within one month, take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment.

[*8 March 2022*]

53.3 Concurrently with the warning referred to in Sub-paragraph 47.7 of this Regulation, the Bureau shall take the decision to suspend the State aid for the purchased electricity or the guaranteed payment for the electric capacity installed in the cogeneration plant for the period from the date of entry into effect of the decision until the date of taking the decision referred to in Paragraph 53.4 of this Regulation, and also the decision by which the merchant is required, within one month, to reimburse to the public trader the State aid received without justification and disbursed by the public trader for the period during which the non-conformity was established.

[*8 March 2022*]

53.4 If the merchant has reimbursed to the public trader the State aid received without justification in accordance with Paragraph 53.3 of this Regulation, the Bureau shall, within one month, take the decision to resume the State aid suspended in accordance with Paragraph 53.3 of this Regulation. The public trader shall resume the suspended State aid from the date of entry into effect of the abovementioned decision.

[*8 March 2022*]

53.5 If the merchant fails to ensure reimbursement of the State aid received without justification in accordance with Paragraph 53.3 of this Regulation, the Bureau shall, within one month, take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment.

[*8 March 2022*]

54. If, within the period of the previous three years, the Ministry or the Bureau has sent three warnings to the merchant in accordance with Paragraph 47 of this Regulation and the Bureau finds that the merchant or its cogeneration plant does not conform to any of the criteria referred to in Paragraph 47 of this Regulation, the Bureau shall, within one month, take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant.

[*8 March 2022*]

55. If after the time period referred to in Paragraph 52, 52.1, or 52.2 of this Regulation non-conformity with the criteria referred to in Paragraph 41 or Sub-paragraph 47.2 or 47.4 of this Regulation is established or if the merchant has not submitted the documents referred to in Paragraph 52.1 of this Regulation on conformity with Sub-paragraph 47.2 of this Regulation or the documents referred to in Paragraph 52.2 of this Regulation on conformity with Sub-paragraph 47.4 of this Regulation, the Bureau shall, within one month, take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant.

[*8 March 2022*]

56. After the end of the period of the revocation of the right to the mandatory procurement or State aid, the merchant shall, within two months, submit the report referred to in Paragraph 32 of this Regulation for the current year. If, on the basis of the information provided in the report referred to in this Paragraph, the Bureau establishes violations for which the right to the mandatory procurement should be revoked in accordance with this Regulation, the Bureau shall take the decision to recover the State aid received without justification or in an unlawful manner.

56.1 If the merchant has not submitted the annual report referred to in Paragraph 32 of this Regulation within the time limit referred to in Paragraph 56 of this Regulation after revocation of the right to the mandatory procurement or the right to the guaranteed payment or after the end of the period of the State aid, the Bureau shall, within one month, send a warning for the recovery of the State aid received without justification or in an unlawful manner. If the merchant fails to submit the annual report within a month after receipt of the warning referred to in this Paragraph, the Bureau shall take the decision by which the merchant is required, within a month, to reimburse the State aid received without justification or in an unlawful manner.

[*8 March 2022*]

57. The transmission system operator shall control the accessibility of capacity of a cogeneration plant (or individual units thereof) for merchants who have obtained the right to the guaranteed payment in accordance with the following procedures:

57.1. the transmission system operator controls and calculates availability, i.e. the readiness of each cogeneration plant (or individual installations thereof) for launching at a specific time harmonised with the merchant and for accepting the capacity requested by the transmission system operator;

57.2. the transmission system operator carries out the supervision of availability of the cogeneration plant (or individual installations thereof), including requesting launching and load of the cogeneration unit (or individual installations thereof). If the transmission system operator has requested launching and load of a cogeneration plant (or individual installations thereof), the operator shall compensate the additionally caused expenditures to the merchant, reaching an agreement with the merchant on the amount thereof. If a cogeneration plant (or an individual installation thereof) is unable to execute a command of the controller of the transmission system operator or executes it partially, the expenditures related thereto caused to the transmission system operator shall be compensated by the merchant;

57.3. the public trader suspends the payment for the capacity component to the merchant for the cogeneration plant which is connected to the electricity transmission system and which, in accordance with the requirements laid down in the Public Utilities Commission Council Decision No. 1/4 of 26 June 2013, Network Code in the Electricity Sector, conforms to the definition of a generating unit of a dispatch control schedule if in the previous year the capacity installed in the cogeneration plant had not been accessible (available) to the extent specified in this Regulation. The public trader shall resume the payment of the capacity component if the cogeneration plant proves the accessibility of capacity (availability).

57.1 The Bureau may involve an external expert to supervise the use of the right to the mandatory procurement and the right to the guaranteed payment.

[*8 March 2022*]

57.2 The transmission system operator shall, by the tenth date of each month, provide information to the Bureau on such merchants which, within the specified time period, have not submitted the declaration referred to in Paragraph 31.2 or 31.4 of this Regulation or the certification referred to in Paragraph 31.3 of this Regulation for the power plants in their ownership. The Bureau shall, within five working days after receipt of the information provided by the transmission system operator, take the decision to suspend the disbursement of the State aid for electricity generated in the power plants or the guaranteed payment for the electric capacity installed in the cogeneration plant referred to in this Paragraph for the period, starting from expiry of the time period referred to in Paragraph 31.2, 31.3, or 31.4 of this Regulation.

[*8 March 2022*]

57.3 If the merchant wishes to resume the disbursement of the State aid for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant suspended in accordance with Paragraph 57.2 of this Regulation, it shall submit to the Bureau proof of the submission of the declaration referred to in Paragraph 31.2 or 31.4 of this Regulation or the certification referred to in Paragraph 31.3 of this Regulation to the transmission system operator. The Bureau shall, within five working days, verify the fact of submission of the abovementioned declarations or certifications and, if it establishes that the abovementioned declarations or certifications have been submitted to the transmission system operator in accordance with the proof provided, it shall take the decision to resume the disbursement of the State aid for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant suspended in accordance with Paragraph 57.2 of this Regulation. The public trader shall settle the disbursement of the suspended State aid or the guaranteed payment within 10 calendar days after the date of entry into effect of the abovementioned decision.

[*8 March 2022*]

**V. Provisions for the Disbursement of the Mandatory Procurement and Guaranteed Payment**

58. The public trader shall settle the payment for electricity sold within the scope of the mandatory procurement and the guaranteed payment for the electric capacity installed in the cogeneration plant to the merchant once a month on the basis of the contract referred to in Sub-paragraph 2.3 of this Regulation.

59. If the cogeneration plant or a cogeneration unit of such power plant is not operational for a continuous period of more than six months, the transmission system operator shall immediately inform the public trader thereof. The public trader shall, after being informed that the cogeneration plant or the cogeneration unit of such power plant has been inoperative for a continuous period of more than six months, suspend the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant. The public trader shall resume payment for the electric capacity installed in the cogeneration plant from the time when the merchant proves that the cogeneration plant or the cogeneration unit of such cogeneration plant is operational.

60. For the cogeneration plants referred to in Section 28.1, Paragraph 2.1 of the Electricity Market Law with an installed electric capacity greater than 4 MW (hereinafter – the capacity plant) (except for cogeneration plants established by merging several power plants in accordance with Paragraph 49.4 of this Regulation), the public trader shall disburse the guaranteed payment according to the capacity component calculation that is calculated in the following order according to the capacity component of the cogeneration:

60.1. for cogeneration plants the installed electric capacity of which is greater than 4 MW but less than 20 MW, the capacity component per one installed electric megawatt a year shall be calculated, using the following formula:

J = 153 527 × s

60.2. for cogeneration plants the installed electric capacity of which is greater than 20 MW but less than 100 MW, the capacity component per one installed electric megawatt shall be calculated, using the following formula:

J = 119 237 × s

60.3. for cogeneration plants the installed electric capacity of which is greater than 100 MW, the capacity component per one installed electric megawatt shall be calculated, using the following formula:

J = 102 304 × s where

*J*– the capacity component per one installed electric megawatt a year (EUR/MW a year);

*s*– the price differentiation coefficient to prevent overcompensation as laid down in the decision of the Ministry or the Bureau to apply the price differentiation coefficient to prevent overcompensation.

[*8 March 2022*]

61. For capacity plants connected to the transmission system, the number of hours of use of the installed electric capacity of the cogeneration plant or of an individual unit thereof shall be at least 1200 hours a year. If the Bureau establishes that the number of hours of use of the installed electric capacity of the cogeneration plant referred to in this Paragraph is less than 1200 hours a year and does not conform to the conditions referred to in Paragraph 65 of this Regulation, the Bureau shall take the decision to terminate the right to the guaranteed payment.

[*8 March 2022*]

62. The public trader shall pay the capacity component for the installed electric capacity (regardless of electricity output) once a month, dividing the annual payment in 12 parts.

63. The public trader shall suspend the payment of the capacity component to the cogeneration plant which is connected to an electricity transmission system and which, in accordance with the requirements laid down in the Public Utilities Commission Council Decision No. 1/4 of 26 June 2013, Network Code in the Electricity Sector, conforms to the definition of a generating unit of a dispatch control schedule if in the previous year the capacity installed in the cogeneration plant had not been accessible (available) for at least 4500 hours. The transmission system operator shall control and calculate availability in accordance with the procedures laid down in Paragraph 57 of this Regulation and shall inform the public trader thereof immediately.

64. For electricity generated in the cogeneration plant in cogeneration and transferred into the network and exceeding the amount referred to in Annex 5 to this Regulation, the merchant shall carry out the adjustment of the capacity component referred to in Paragraph 60 of this Regulation. Each month until the tenth date, the merchant shall submit to the public trader the calculation of the adjustment of the capacity component (in electronic form) for the previous calendar month in accordance with Annex 5 to this Regulation. The public trader shall take into account the adjustment of the capacity component in the settlement of accounts with the merchant, reducing the amount to be disbursed accordingly.

65. If in previous years the number of hours of use of electric capacity in the cogeneration plants referred to in Paragraph 61 of this Regulation has exceeded 1200 hours, the respective cogeneration plants are entitled to reduce the number of annual hours of use of electric capacity installed in the cogeneration plant or individual unit thereof by 25 %, but not by more than the accumulated and unused hours of use of capacity established in previous years.

66. The public trader shall disburse to the merchant the guaranteed payment for the capacity plants for 15 years from the date on which one of the following conditions is fulfilled:

66.1. the capacity of the cogeneration plant or individual cogeneration unit of such plant has been put into operation according to an authorisation issued by the system operator for connecting the cogeneration plant or individual cogeneration unit of such plant to the system, but if such authorisation has not been issued – from the day when the plant was accepted into service;

66.2. the capacity indicated in the decision to grant the right to the mandatory procurement of electricity generated in cogeneration after increasing the capacity has been put into operation according to an authorisation issued by the system operator for connecting the cogeneration plant with the increased capacity or individual unit of such plant to the system.

[*8 March 2022*]

67. For cogeneration plants the installed electric capacity of which does not exceed 4 MW and for cogeneration plants established by merging several power plants in accordance with Paragraph 49.4 of this Regulation, the price of electricity generated in cogeneration shall be determined, using the following formulae:

67.1. for cogeneration plants which use renewable energy resources or peat as fuel:

*C* = *k*AER × *s* where

*C*– the price without value added tax for which the public trader purchases electricity produced in cogeneration (EUR/MWh);

*k*AER – the price differentiation coefficient for power plants using renewable energy resources or peat which depends on the electric capacity installed in the cogeneration plant;

*s*– the price differentiation coefficient to prevent overcompensation as laid down in the decision of the Ministry or the Bureau to apply the price differentiation coefficient to prevent overcompensation;

67.2. for cogeneration plants which use natural gas as fuel:

|  |  |  |
| --- | --- | --- |
| *C* = | (*Tgs* × 10,538 + *kgst* + *kgpu*) | × *k* × 3,4 × *s* |
| 9.3 |

*Tgs* – the trade price of natural gas without value added tax (EUR/MWh) included in the price of natural gas for captive consumers determined in accordance with the procedures laid down in the Energy Law;

*kgst* – the price differentiation coefficient of natural gas which depends on the electric capacity installed in the cogeneration plant;

*kgpu* – the transmission and storage coefficient of natural gas;

*k*– the price differentiation coefficient which depends on the electric capacity installed in the cogeneration plant;

*s*– the price differentiation coefficient to prevent overcompensation as laid down in the decision of the Ministry or the Bureau to apply the price differentiation coefficient to prevent overcompensation;

67.3. if renewable energy resources and a mixture thereof with peat or another fuel is used in the cogeneration plant, the price of electricity shall be calculated as the average weighted value in proportion to the consumption of different types of fuel. In such case the cogeneration plant shall be equipped with a system of metering devices which allows the individual recording of the consumption of each type of fuel. If renewable energy resources make up at least 90 % of the fuel consumed in a cogeneration unit, it shall be assumed that all the electricity generated in the cogeneration unit is generated from renewable energy resources.

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68. The public trader shall purchase electricity generated in cogeneration process from a merchant which has the right to the mandatory procurement and the electric capacity installed in the cogeneration plant or individual cogeneration unit of such plant of which does not exceed 4 MW for 10 years from the day when one of the following conditions has been fulfilled:

68.1. the capacity of the cogeneration plant or individual cogeneration unit of such plant has been put into operation according to an authorisation issued by the system operator for connecting the cogeneration plant or individual cogeneration unit of such plant to the system, but if such authorisation has not been issued – from the day when the plant was accepted into service;

68.2. the capacity indicated in the decision to grant the right to the mandatory procurement of electricity generated in cogeneration after increasing the capacity has been put into operation according to an authorisation issued by the system operator for connecting the cogeneration plant with the increased capacity or individual unit of such plant to the system.

69. In order to calculate the price for which the public trader purchases the amount of electricity generated in cogeneration according to Paragraph 26 of this Regulation, using the formulae referred to in Paragraph 67 of this Regulation:

69.1. the price differentiation coefficient to prevent overcompensation *s* shall be used in accordance with Paragraph 72 of this Regulation for the cogeneration plants referred to in Sub-paragraphs 67.1 and 67.2 of this Regulation;

69.2. the coefficient *k*AER values referred to in Annex 6 to this Regulation which depend on the electric capacity installed in the cogeneration plant shall be used for the cogeneration plants referred to in Sub-paragraph 67.1 of this Regulation;

69.3. the following shall be used for the cogeneration plants referred to in Sub-paragraph 67.2 of this Regulation:

69.3.1. the coefficient *k* values referred to in Annex 6 to this Regulation which depend on the electric capacity installed in the cogeneration plant;

69.3.2. the trade price of natural gas without value added tax included in the price of natural gas for captive consumers determined in accordance with the procedures laid down in the Energy Law, the tariff of the trade service, transmission, storage and distribution service *Tgs*;

69.3.3. the price differentiation coefficient of natural gas *kgst* values referred to in Annex 6 to this Regulation which depend on the electric capacity installed in the cogeneration plant;

69.3.4. the transmission and storage coefficient of natural gas *kgpu* which is equal to zero.

70. The trade price of natural gas *Tgs* specified in Sub-paragraphs 67.2 and 69.3.2 of this Regulation does not exceed 26.33 EUR/MWh.

71. If the trade price of natural gas *Tgs* is less than 26.33 EUR/MWh, the trade price of natural gas *Tgs* (EUR/MWh) specified in Sub-paragraphs 67.2 and 69.3.2 of this Regulation shall be determined according to the actual trade price of natural gas.

72. The price differentiation coefficient to prevent overcompensation *s* used in the formulae referred to in Paragraph 60 of this Regulation:

72.1. shall not be less than 0 and shall not exceed 1, and shall be specified in the decision of the Ministry or the Bureau to apply the price differentiation coefficient to prevent overcompensation;

72.2. shall be equal to 1, unless the Ministry or the Bureau has issued the decision to apply the price differentiation coefficient to prevent overcompensation.

72.1 The merchant may, not more frequently than once a year, by submitting an application, request the Bureau to increase or decrease the price differentiation coefficient to prevent overcompensation *s* used in the formulae referred to in Paragraphs 60, 67, and 78 of this Regulation by accordingly revising the remaining duration of the State aid period. The Bureau shall take the decision to revise the price differentiation coefficient to prevent overcompensation *s* used in the formulae referred to in Paragraphs 60, 67, and 78 of this Regulation and the remaining duration of the State aid period, taking into account the duration of the State aid periods referred to in Paragraphs 66, 68, and 79 of this Regulation and the conditions referred to in Paragraphs 81.9 and 81.10 of this Regulation.

[*8 March 2022*]

73. Not later than from 1 January 2022, the merchant shall use organic waste and production residual products as raw materials of the fuel in a biogas production installation for the production of biogas in accordance with Annex 7 to this Regulation. The merchant shall ensure that the proportion of raw materials of the fuel in relation to the total amount of raw materials of the fuel consumed for the production of biogas in a calendar year is:

73.1. from 1 January 2022 to 31 December 2025 – at least 40 %;

73.2. from 1 January 2026 to 31 December 2029 – at least 60 %;

73.3. from 1 January 2030 – at least 80 %.

74. The merchant shall submit to the public trader on a monthly basis, together with the invoice for electricity transferred to the electricity system, information on the name, quantity, and proportion of raw materials of the fuel referred to in Paragraph 73 of this Regulation used in the biogas power plant during the current month in the total amount of raw materials of the fuel.

75. The public trader shall, when performing settlement of accounts with the merchant for electricity generated in the current month, additionally multiply the electricity price calculated for biogas power plants in accordance with Sub-paragraph 67.1 of this Regulation by the following coefficient, taking into account the proportion of raw materials of the fuel used in the biogas power plant referred to in Paragraph 73 of this Regulation as indicated by the merchant:

75.1. if from 1 January 2022 to 31 December 2025 the proportion of the abovementioned raw materials in the current month is:

75.1.1 greater than 50 %, the coefficient 1 shall be applied;

75.1.2. greater than 47 % but not exceeding 50 %, the coefficient 0.85 shall be applied;

75.1.3. greater than 44 % but not exceeding 47 %, the coefficient 0.7 shall be applied;

75.1.4. greater than 40 % but not exceeding 44 %, the coefficient 0.5 shall be applied;

75.1.5. greater than 30 % but not exceeding 40 %, the coefficient 0.4 shall be applied;

75.1.6. greater than 20 % but not exceeding 30 %, the coefficient 0.3 shall be applied;

75.1.7. greater than 10 % but not exceeding 20 %, the coefficient 0.2 shall be applied;

75.1.8. greater than 5 % but not exceeding 10 %, the coefficient 0.1 shall be applied;

75.1.9. from 0 % to 5 %, the coefficient 0 shall be applied;

75.2. if from 1 January 2026 to 31 December 2029 the proportion of the abovementioned raw materials in the current month is:

75.2.1 greater than 70 %, the coefficient 1 shall be applied;

75.2.2. greater than 67 % but not exceeding 70 %, the coefficient 0.9 shall be applied;

75.2.3. greater than 64 % but not exceeding 67 %, the coefficient 0.8 shall be applied;

75.2.4. greater than 60 % but not exceeding 64 %, the coefficient 0.6 shall be applied;

75.2.5. greater than 50 % but not exceeding 60 %, the coefficient 0.5 shall be applied;

75.2.6. greater than 40 % but not exceeding 50 %, the coefficient 0.4 shall be applied;

75.2.7. greater than 30 % but not exceeding 40 %, the coefficient 0.3 shall be applied;

75.2.8. greater than 20 % but not exceeding 30 %, the coefficient 0.2 shall be applied;

75.2.9. greater than 10 % but not exceeding 20 %, the coefficient 0.1 shall be applied;

75.2.10. from 0 % to 10 %, the coefficient 0 shall be applied;

75.3. if from 1 January 2030 the proportion of the abovementioned raw materials in the current month is:

75.3.1 greater 90 %, the coefficient 1 shall be applied;

75.3.2. greater than 87 % but not exceeding 90 %, the coefficient 0.95 shall be applied;

75.3.3. greater than 84 % but not exceeding 87 %, the coefficient 0.85 shall be applied;

75.3.4. greater than 80 % but not exceeding 84 %, the coefficient 0.7 shall be applied;

75.3.5. greater than 70 % but not exceeding 80 %, the coefficient 0.6 shall be applied;

75.3.6. greater than 60 % but not exceeding 70 %, the coefficient 0.5 shall be applied;

75.3.7. greater than 50 % but not exceeding 60 %, the coefficient 0.4 shall be applied;

75.3.8. greater than 40 % but not exceeding 50 %, the coefficient 0.3 shall be applied;

75.3.9. greater than 30 % but not exceeding 40 %, the coefficient 0.2 shall be applied;

75.3.10. greater than 20 % but not exceeding 30 %, the coefficient 0.1 shall be applied;

75.3.11. from 0 % to 20 %, the coefficient 0 shall be applied.

76. The Bureau shall ascertain whether the proportion of raw materials of the fuel used in the cogeneration plant specified in the annual report of the operator referred to in Paragraph 32 of this Regulation corresponds to the amount referred to in Paragraph 73 of this Regulation.

77. The public trader shall, by 15 February of each year, submit to the Bureau a summary of the information provided by merchants referred to in Paragraph 74 of this Regulation.

78. Monthly payment for the electric capacity installed in the cogeneration plant shall be calculated for cogeneration plants or cogeneration units of such power plants, using the following formulae:

78.1. for the cogeneration plant or cogeneration unit of such power plant in which solid fuel is used, monthly payment for the electric capacity installed in the cogeneration plant shall be calculated by multiplying the payment for the electric capacity unit installed in the power plant (EUR 224 459) by the electric capacity installed and dividing by 12 months:

|  |  |
| --- | --- |
| *M* = | 224459 × *P* × *s* |
| 12 |

78.2. for the cogeneration plant or cogeneration unit of such plant in which natural gas or liquid fuel is used as fuel, monthly payment for the electric capacity installed in the cogeneration plant shall be calculated by multiplying the payment for the electric capacity unit installed in the power plant (EUR 136 186) by the electric capacity installed and dividing by 12 months:

|  |  |  |
| --- | --- | --- |
| *M* = | 136186 × *P* × *s* | where |
| 12 |

M – the guaranteed payment for the electric capacity installed in the cogeneration plant or cogeneration unit of such power plant (EUR/month);

P – the electric capacity installed in the cogeneration plant or cogeneration unit which complies with the sum of the gross capacities (MW) stipulated by the equipment manufacturer;

*s*– the price differentiation coefficient to prevent overcompensation as laid down in the decision of the Ministry or the Bureau to apply the price differentiation coefficient to prevent overcompensation;

78.3. if renewable energy resources and a mixture thereof with peat or another fuel is used in the cogeneration plant, the price of electricity shall be calculated as the average weighted value in proportion to the consumption of different types of fuel. In such case the cogeneration plant shall be equipped with a system of metering devices which allows the individual recording of the consumption of each type of fuel. If renewable energy resources make up at least 90 % of the fuel consumed in a cogeneration unit, it shall be assumed that all the electricity generated in the cogeneration unit is generated from renewable energy resources.

79. The public trader shall pay the merchant the guaranteed payment for 15 years from the day when one of the following conditions has been complied with:

79.1. the capacity indicated in the decision to grant the right to the guaranteed payment has been put into operation according to an authorisation issued by the system operator to connect the cogeneration plant to the system;

79.2. the capacity indicated in the decision to grant the right to the guaranteed payment after increasing the capacity has been put into operation according to an authorisation issued by the system operator to connect the cogeneration plant with the increased capacity to the system.

80. For the merchants which have obtained the right to the mandatory procurement, the aid shall be granted in accordance with the time periods referred to in Paragraph 66, 68, or 79 of this Regulation, but not longer than until full depreciation of the fixed assets of the power plant in accordance with the laws and regulations regarding accounting requirements.

80.1 If the Bureau establishes that the merchant has continued to receive the State aid after full depreciation of the fixed assets of the cogeneration plant in accordance with the laws and regulations regarding accounting requirements, the Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment and the decision referred to in Paragraph 87 of this Regulation, counting the State aid received in an unlawful manner from the date of full depreciation of the fixed assets of the cogeneration plant.

[*8 March 2022*]

81. Merchants which have the right to the guaranteed payment shall sell the electricity generated in the cogeneration plant in the electricity market for such price as has been agreed by the merchant and the purchaser of electricity.

81.1 The amount of electricity generated in the cogeneration plant and transferred to the network of the system operator during the period in which State aid is suspended shall be sold by the merchant:

81.11. to the public trader at a price calculated, using the following formula:

C = CNPS – X (excluding VAT) where

C – the price without value added tax for which the public trader purchases electricity from the cogeneration plant (EUR/MWh) during the period in which the State aid is suspended;

CNPS – hourly price of the trade district of Latvia (Elspot) of the Nord Pool Spot electricity exchange;

X – the fee set by the public trader which includes selling and balancing costs and which the public trader publishes on its website;

81.12. any market participant, by mutual agreement on the price of electricity, notifying the public trader in writing at least five days before the start of trading to another market participant. During the period of time in which the merchant sells electricity to another market participant, the contract between the public trader and the merchant shall be suspended and the public trader shall not provide the balancing service to the cogeneration plant of the merchant.

[*8 March 2022*]

**V.1 Procedures and Conditions for Calculating the Internal Rate of Return of the Total Capital Investments of a Cogeneration Plant**

[*8 March 2022*]

81.2 The Bureau shall calculate the internal rate of return of the total capital investments of a cogeneration plant for the entire State aid period in accordance with Paragraph 81.8 of this Regulation. The Bureau shall determine the price differentiation coefficient to prevent overcompensation in accordance with Paragraph 81.10 of this Regulation and shall take the decision by which the price differentiation coefficient to prevent overcompensation *s* is determined. The decision shall specify the start date for the application thereof.

[*8 March 2022*]

81.3 The Bureau shall recalculate the internal rate of return of the total capital investments of a cogeneration plant for the entire State aid period and the price differentiation coefficient to prevent overcompensation *s* once a year, and also in the following cases:

81.31. if changes in the installed electrical or thermal capacity of the cogeneration plant are established, including the implementation of the merger referred to in Paragraph 49.4 of this Regulation;

81.32. if the values referred to in Annex 8 to this Regulation are revised and changed;

81.33. if risks of overcompensation of the cogeneration plant are identified;

81.34. within one month from the date on which the right to the mandatory procurement or the right to the guaranteed payment of the merchant has expired;

81.35. within one month from the date on which the merchant has submitted the application for waiver of the right to the mandatory procurement or the right to the guaranteed payment in accordance with Paragraph 19 of this Regulation or from the date on which the decision on the waiver of the right to the mandatory procurement or the right to the guaranteed payment has been taken before the date of expiry of the right to the mandatory procurement or the right to the guaranteed payment.

[*8 March 2022*]

81.4 The merchant has the obligation to constantly monitor the indicators that may affect the internal rate of return of the total capital investments and shall, without delay, inform the Bureau of the circumstances that may indicate the occurrence of risks of overcompensation.

[*8 March 2022*]

81.5 The Bureau is entitled to request the merchant to submit information and documents necessary for the calculation of the internal rate of return of the total capital investments. The merchant has the obligation to submit the requested information within 10 working days after receipt of the request of the Bureau.

[*8 March 2022*]

81.6 If the merchant fails to submit the information and documents referred to in Paragraph 81.5 of this Regulation (except for the cases referred to in Sub-paragraphs 81.85, 81.86, and 81.89 of this Regulation) within the specified time period or if the information and documents submitted by the merchant are not complete or do not prove the information provided by the merchant to the degree of reliability of legal evidence, the Bureau shall take the decision to suspend the disbursement of the State aid for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant. The public trader shall, on the next working day after entry into effect of the decision, suspend the disbursement of the State aid for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant until a new decision of the Bureau has been taken in accordance with Paragraph 81.7 of this Regulation.

[*8 March 2022*]

81.7 If the merchant wishes to resume the disbursement of the State aid which has been suspended in accordance with Paragraph 81.6 of this Regulation, it shall submit to the Bureau the information and documents referred to in Paragraph 81.5 of this Regulation within two months from the moment of suspension of the disbursement of the State aid. The Bureau shall, within five working days after receipt of the information and documents, take the decision to resume the disbursement of the State aid suspended in accordance with Paragraph 81.6 of this Regulation. The public trader shall disburse the suspended State aid within 10 calendar days after the date of entry into effect of the abovementioned decision. If the merchant fails to provide the requested information and documents within two months, the Bureau shall take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant.

[*8 March 2022*]

81.8 The Bureau shall calculate the internal rate of return of the total capital investments of a cogeneration plant as follows:

81.81. the formulae referred to in Annex 8 to this Regulation shall be used in the calculation;

81.82. the data necessary for the calculation on the amount and price of electricity purchased within the scope of the mandatory procurement shall be requested by the Bureau from the public trader;

81.83. the actual values of the indicators characterising the operation of the cogeneration plant, both on the revenue and the expenditure side, shall be indicated in the calculation, except for the values of the operating costs of the cogeneration plant which shall be determined in accordance with the benchmarks referred to in Annex 8 to this Regulation;

81.84. the operating costs of the cogeneration plant shall be determined in accordance with the benchmarks referred to in Annex 8 to this Regulation as a percentage of the investments made in the cogeneration plant and depending on the type of the power plant;

81.85. if the merchant is unable to provide actual data on the initial investments made in the cogeneration plant, it shall be assumed that the amount of initial investments made in the cogeneration plant is equal to zero (except for the case referred to in Sub-paragraph 81.89 of this Regulation);

81.86. if the merchant is unable to provide actual data on the fuel price or thermal energy production tariff for the period of operation of the cogeneration plant, the benchmarks referred to in Annex 8 to this Regulation shall be used in the calculation for the respective period which shall not be less than one calendar month;

81.87. if electricity generated in the cogeneration plant is sold outside the mandatory procurement, the merchant shall submit the actual values of the amount and price of electricity sold for each period for the settlement of accounts;

81.88. the calculation of the net cash flow shall include only such actual additional investments made in the cogeneration plant which have been made to ensure the technological functions of the cogeneration plant according to the production technology in accordance with the principle of the uniform technological cycle or to increase the electrical capacity of the cogeneration plant. The amount of the additional investments (expressed in euros) shall be included in the calculation of the net cash flow in the year in which they were made;

81.89. if the merchant has made initial investments in the cogeneration plant prior to taking the decision to grant the right to the mandatory procurement or the right to the guaranteed payment in accordance with Section 28 or 28.1 of the Electricity Market Law, the calculation shall indicate the actual values of the initial investments made in the cogeneration plant or determine them in accordance with the benchmarks referred to in Annex 8 to this Regulation;

81.810. for cogeneration plants for which the guaranteed payment is settled for the electric capacity installed in the cogeneration plant, the price of electricity for future periods shall be based on the NASDAQ OMX exchange price quotation of electricity financial contracts for the price district of Latvia. Calculations must be based on the average price quotations in the month preceding the submission of the calculations to the Bureau;

81.811. if the disbursement of the State aid to the merchant has been suspended and subsequently resumed, the calculation shall also include the State aid that has not been disbursed to the merchant during the period when the payment of the aid was suspended.

[*8 March 2022*]

81.9 If, according to the calculation referred to in Paragraphs 81.2 and 81.3 of this Regulation, the internal rate of return of the total capital investments of a cogeneration plant for the entire State aid period does not exceed 9 %, the price differentiation coefficient to prevent overcompensation *s* shall be 1.

[*8 March 2022*]

81.10 The price differentiation coefficient to prevent overcompensation *s* shall be determined in conformity with the following conditions:

81.101. it shall be calculated by gradual iteration steps, using the internal rate of return calculation carried out for the entire State aid period in accordance with Annex 8 to this Regulation;

81.102. it shall be determined at such level that the internal rate of return of the total capital investments of a cogeneration plant for the entire State aid period does not exceed 9 %, calculated individually for each cogeneration plant of the merchant to the nearest thousandth;

81.103. it shall be determined from the first date of the next full calendar month following the date of entry into effect of the decision referred to in Paragraph 81.2 of this Regulation.

[*8 March 2022*]

81.11 If the price differentiation coefficient to prevent overcompensation *s* determined in accordance with the calculation referred to in Paragraph 81.10 of this Regulation is equal to zero and the calculated internal rate of return of the total capital investments of a cogeneration plant at the end of the State aid period exceeds 9 %, the Bureau shall calculate the amount of the State aid to be recovered and take the decision to recover the State aid received without justification in accordance with Paragraph 87 of this Regulation. The amount of the State aid to be recovered is calculated by replacing the revenues from the sale of electricity by a monthly payment which would ensure that the internal rate of return of the total capital investments of a cogeneration plant at the end of the State aid period does not exceed 9 %.

[*8 March 2022*]

81.12 The requirements referred to in this Chapter shall not apply to the cogeneration plants for which, within three years from the date of the commencement of exercising the right to the mandatory procurement or the right to the guaranteed payment, the tariff for thermal energy produced has been approved by the regulator.

[*8 March 2022*]

**VI. Conditions for Reducing the Obligations for the Guaranteed Payment for the Electric Capacity Installed in the Cogeneration Plant by Receiving a Single Discounted Payment**

82. A single payment consisting of discounted three quarters of the guaranteed payment to be received in the remaining aid period for the electric capacity installed in the cogeneration plant (hereinafter – the single payment) is paid to the merchant if a decision thereon has been taken by the Cabinet in accordance with the laws and regulations which were in force until 1 September 2020. The single payment shall consist of two parts the amount of which has been decided by the Cabinet. The first part, not exceeding one third of the total amount, is paid to the merchant as compensation in the year of disbursement and shall be recorded in the accounting documents of the merchant as revenues of the respective year. The remaining part is disbursed as an advance payment and shall be recognised as revenues in the accounts of the merchant in proportion to the fulfilment of the obligations until the end of the aid period.

83. The single payment shall be calculated, using the following formula:

 where

*M*– the amount of the single payment (in euros);

*Gi* – the amount of the capacity component payment in year i which is determined in accordance with Paragraph 60 of this Regulation (in euros). In the year in which the capacity payments are suspended, the amount of the capacity payment shall be determined in proportion to the number of days during which the aid is paid;

*i*– the consecutive year where 2018 is the first year;

*n*– the number of calendar years in the remaining aid period.

84. After the Cabinet has taken the decision to settle a single payment, the source and amount of funding, the public trader shall settle the single payment and the merchant shall receive a guaranteed payment for the electric capacity installed in the cogeneration plant which is equal to 25 % of the calculated capacity component.

85. The merchant has the right to submit to the Cabinet a request to review the fulfilment of the advance obligations referred to in Paragraph 82 of this Regulation in respect of the disbursement of the remaining part of the advance on a year-by-year basis. The draft decision to review the disbursement of the remaining part of the advance on a year-by-year basis or to refuse the review of the disbursement of the remaining part of the advance on a year-by-year basis shall be prepared by the Bureau and submitted by the Minister for Economics to the Cabinet for consideration as a matter of urgency.

**VII. Conditions and Methodology for the Recovery of the State Aid Received Without Justification or in an Unlawful Manner**

86. If the Bureau establishes that the merchant has received the State aid without justification, the Bureau shall immediately take the decision by which the merchant is required, within one month, to reimburse to the public trader the State aid received without justification and disbursed by the public trader for the entire period during which the merchant received the State aid without justification. In the cases referred to in Sub-paragraphs 46.5, 48.1, 48.4, 48.5, 48.6, 48.8, Paragraphs 53 and 61 of this Regulation, this period shall not be shorter than the period from the deadline for submission of the last annual report referred to in Paragraph 32 of this Regulation. In the cases referred to in Paragraphs 34 and 56.1 of this Regulation, the period shall not be shorter than the period from the first day of the annual report period referred to in Paragraph 32 of this Regulation. In the case referred to in Paragraph 54 of this Regulation, the period shall not be shorter than the period from giving the last warning to the merchant. In the case referred to in Paragraph 55 of this Regulation, the period shall not be shorter than the period from the notification of the warning to the merchant.

[*8 March 2022*]

86.1 If the Bureau has evidence of violations at its disposal for which, in accordance with the laws and regulations in force during the relevant period, the right to the mandatory procurement or the right to the guaranteed payment should have been revoked but has not been revoked, the Bureau shall, within a month after establishing the fact, take the decision to revoke the right to the mandatory procurement from the moment of committing the abovementioned violation, at the same time taking the decision by which it is required, within one month, to reimburse to the public trader the State aid received without justification and disbursed by the public trader for the entire period in which the merchant received the State aid without justification.

[*8 March 2022*]

86.2 The merchant may, by submitting a reasoned application, request the Bureau to extend the time period for the reimbursement of the State aid received without justification referred to in Paragraphs 53, 53.3, 86, and 86.1 of this Regulation by dividing the payment into instalments. The Bureau may, on the basis of an application from the merchant, decide to divide the State aid subject to recovery which was received without justification into instalments, imposing the obligation on the merchant to reimburse it in full to the public trader not later than within three months from the entry into effect of the decision referred to in Paragraphs 53, 53.1, 86, and 86.1 of this Regulation.

[*8 March 2022*]

87. If it is established that the merchant has violated the conditions of the State aid referred to in the Electricity Market Law or this Regulation and the State aid received is to be regarded as unlawful State aid, the Bureau shall, within a month after establishing this fact, take the decision to revoke the right to the mandatory procurement granted to the merchant and requiring the merchant to reimburse the State aid received in an unlawful manner to the public trader in accordance with this Regulation together with interest in accordance with Chapter IV or V of the Law on Control of Aid for Commercial Activity.

[*8 March 2022*]

87.1 The State aid received shall also be regarded as unlawful State aid if:

87.11. the condition referred to in Paragraph 80 of this Regulation has not been complied with;

87.12. conformity with the requirements referred to in Paragraph 8 or 13 of this Regulation has not been ensured or the right to the mandatory procurement or the right to the guaranteed payment has been revoked on the basis of Sub-paragraph 48.1 or 48.4 of this Regulation.

[*8 March 2022*]

88. The public trader shall not continue the procurement of electricity within the scope of the mandatory procurement or the payment of the capacity component to the cogeneration plant after entry into effect of the decision referred to in Paragraph 86 or 87 of this Regulation.

89. If the merchant fails to comply with the decision referred to in Paragraph 53, 53.3, 86, 86.1, 86.2, or 87 of this Regulation within the time period specified therein, the public trader shall inform the Bureau thereof within three working days, indicating the amount of the outstanding amount, including the interest referred to in Paragraph 87 of this Regulation.

[*8 March 2022*]

**VII.1 Suspension of Disbursement of the State Aid upon Expiry of the State Aid Period**

[*8 March 2022*]

89.1 The Bureau shall take the decision to revoke the right granted to the merchant to sell electricity generated in cogeneration within the scope of the mandatory procurement or to receive the payment for the electric capacity installed in the cogeneration plant, starting from the next day after the time period specified in Section 30.4, Paragraphs one and two of the Electricity Market Law has been reached.

[*8 March 2022*]

89.2 The public trader shall suspend the procurement of electricity within the scope of the mandatory procurement or payments for the installed capacity from the date when, in accordance with the decision of the Bureau referred to in Paragraph 89.1 of this Regulation, the right to the mandatory procurement or the right to the guaranteed payment of the merchant has been revoked.

[*8 March 2022*]

**VIII. Closing Provisions**

90. Cabinet Regulation No. 221 of 10 March 2009, Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration (*Latvijas Vēstnesis,* 2009, Nos. 42, 189, 205; 2010, No. 150; 2012, No. 142; 2013, Nos. 158, 234; 2014, No. 82; 2015, No. 250; 2016, No. 137; 2017, Nos. 128, 204; 2018, Nos. 84, 90; 2019, No. 257; 2020, No. 94), is repealed.

91. The public trader shall continue to purchase electricity from the merchants which have been granted the right to the mandatory procurement or the right to the guaranteed payment by the decisions issued by the Ministry in accordance with Cabinet Regulation No. 921 of 6 November 2006, Regulations Regarding Electricity Production in Cogeneration, and Cabinet Regulation No. 221 of 10 March 2009, Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration, in conformity with the conditions included in the respective decisions and this Regulation.

92. Until the time when the elements of the natural gas price specified in Chapters 3 and 4 of Regulator Council Decision No. 1/9 (minutes No. 12, par. 2) of 27 March 2017, Methodology for Calculation of the Natural Gas Price for Captive Consumers, come into force, the transmission and storage coefficient of natural gas *kgpu* referred to in Sub-paragraphs 67.2 and 69.3.4 of this Regulation shall be 27.07.

93. The merchants which have received the right to the mandatory procurement for electricity or which have been granted the right to the guaranteed payment by the decisions issued by the Ministry in accordance with Cabinet Regulation No. 921 of 6 November 2006, Regulations Regarding Electricity Production in Cogeneration, and Cabinet Regulation No. 221 of 10 March 2009, Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration, shall submit the annual reports on the consumption of the used energy resources, the amount of electricity and thermal energy produced, and the technology used in accordance with Annex 4 to this Regulation.

94. The list of warnings referred to in Paragraph 54 of this Regulation also includes warnings issued in accordance with Paragraph 44, 44.1, 44.3, or Sub-paragraph 45.21, 45.22, 45.23, 45.24, or 45.25 of Cabinet Regulation No. 221 of 10 March 2009, Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration.

95. The merchant shall, by 31 December 2020, submit to the Bureau the electricity, thermal energy, and fuel supply connection schemes referred to in Paragraph 22 of this Regulation if such have not been submitted to the Bureau by the date of coming into force of this Regulation.

96. If, by the date of coming into force of this Regulation, the merchant has not submitted the principal scheme of electric connection referred to in Cabinet Regulation No. 221 of 10 March 2009, Regulations Regarding Electricity Production and Price Determination upon Production of Electricity in Cogeneration, to the system operator, the public trader, and the Bureau, the public trader shall discontinue the procurement of electricity generated in cogeneration within the scope of the mandatory procurement from the date of coming into force of this Regulation. If, within three months after the date of coming into force of this Regulation, the merchant fails to submit the principal scheme of electric connection referred to in Paragraph 23 of this Regulation to the system operator, the public trader, and the Bureau, the Bureau shall take the decision to revoke the right to the mandatory procurement granted to the merchant. If, within three months after the date of coming into force of this Regulation, the merchant submits the principal scheme of electric connection referred to in Paragraph 23 of this Regulation to the system operator, the public trader, and the Bureau, the public trader shall resume the procurement of electricity generated within the scope of the mandatory procurement from the first day of the next calendar month after submission of the principal scheme of electric connection referred to in Paragraph 23 of this Regulation to the system operator, the public trader, and the Bureau.

97. The requirement referred to in Sub-paragraph 46.1 of this Regulation for the merchant to specify in the report referred to in Paragraph 32 of this Regulation the official electronic address for communication with the Bureau shall be applicable from 1 January 2023. By 1 January 2023, the merchant may specify the electronic mail address for communication with the Bureau in the report referred to in Paragraph 32 of this Regulation instead of the official electronic address.

98. By 1 October 2022, the Bureau shall calculate the internal rate of return of the total capital investments of cogeneration plants referred to in Paragraph 81.2 of this Regulation for those merchants for which the right to the mandatory procurement or the right to the guaranteed payment is in effect.

[*8 March 2022*]

99. The merchant shall, by 1 June 2022, submit the following information and documents to the Bureau for the purpose of calculating the internal rate of return of the total capital investments:

99.1. the actual data on the investments made in the cogeneration plant for the entire State aid period and the documents proving it to the degree of reliability of legal evidence;

99.2. the actual data on the revenues and expenditures of the cogeneration plant for the entire period of the State aid, except for the data on the operating costs of the cogeneration plant. If the merchant cannot provide actual data on the price of fuel, the thermal energy production tariff, and the selling price of the electricity generated and sold in the cogeneration plant otherwise than within the scope of the mandatory procurement for any period of operation of the cogeneration plant, it shall note for which periods these data are not available;

99.3. other information and documents that may be relevant for the calculation of the internal rate of return of the total capital investments.

[*8 March 2022*]

100. If the merchant fails to submit the information and documents referred to in Paragraph 99 of this Regulation within the specified time period (except for the cases referred to in Sub-paragraphs 81.85 and 81.89 of this Regulation), the Bureau shall, within a month after the time period referred to in Paragraph 99 of this Regulation, take the decision to revoke the right to the mandatory procurement or the right to the guaranteed payment granted to the merchant.

[*8 March 2022*]

101. The merchant shall, by 1 June 2022, register the electricity generation equipment in the register of guarantee of origin maintained by the transmission system operator (hereinafter – the register of guarantee of origin). The merchant which has the right to the mandatory procurement but exercising thereof has not been commenced by the abovementioned time period shall register the electricity generating equipment in the register of guarantee of origin within one month from the date of commencement of the exercise of the right to the mandatory procurement.

[*8 March 2022*]

102. The Bureau shall, after expiry of the time period referred to in Paragraph 101 of this Regulation, request information from the transmission system operator on the electricity generation equipment registered in the register of guarantee of origin. If the electricity generating equipment for which the right to the mandatory procurement has been obtained is not registered in the register of guarantee of origin, the Bureau shall, within five working days after receipt of the information provided by the transmission system operator, take the decision to suspend the disbursement of the State aid for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant for the period after expiry of the time period referred to in Paragraph 101 of this Regulation. The public trader shall, on the next working day after entry into effect of the decision, suspend the disbursement of the State aid for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant.

[*8 March 2022*]

103. If the merchant wishes to resume the disbursement of the State aid suspended in accordance with Paragraph 102 of this Regulation, it shall submit to the Bureau proof of registration of the electricity generation equipment in the register of guarantee of origin. The Bureau shall, within three working days, verify the registration fact of the electricity generating equipment. If the Bureau establishes that, according to the proof provided, the electricity generating equipment is registered in the register of guarantee of origin, the Bureau shall, within five working days, take the decision to resume the disbursement of the State aid suspended in accordance with Paragraph 102 of this Regulation for the purchased electricity or the disbursement of the guaranteed payment for the electric capacity installed in the cogeneration plant. The public trader shall disburse the suspended State aid within 10 calendar days after the date of entry into effect of the abovementioned decision.

[*8 March 2022*]

104. If the non-compliance of the cogeneration plant with the self-consumption requirements is established in the period up to and including 10 September 2020, the Bureau shall take the decision to reimburse to the public trader the State aid received by the merchant during the respective period or to withhold from the financial amount of the State aid subject to disbursement according to the amount of the non-compliance with the self-consumption established.

[*8 March 2022*]

105. The criterion referred to in Sub-paragraph 47.3 of this Regulation for issuing a warning to the merchant if it has not submitted the certificate of verification for the measuring equipment referred to in Sub-paragraphs 21.1 and 21.2 of this Regulation shall apply from 1 March 2023.

[*8 March 2022*]

Prime Minister A. K. Kariņš

Minister for Economics J. Vitenbergs

**Annex 1**

Cabinet Regulation No. 561

2 September 2020

**Efficiency Coefficients**

**I. Harmonised Efficiency Coefficients with Climate Correction for Separate Production of Electricity**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Fuel | Category | Type of fuel | The year of the putting into service of a cogeneration plant | | |
| 2012 and earlier | 2012–2015 | 2016 and later |
| Solid Fuel | S1 | Hard coal, including anthracite, bituminous coal, sub-bituminous coal, coke, semicoke, petroleum coke | 0.442 | 0.442 | 0.442 |
| S2 | Lignite, lignite briquettes, shale oil | 0.418 | 0.418 | 0.418 |
| S3 | Peat, peat briquettes | 0.390 | 0.390 | 0.390 |
| S4 | Dry biomass, including wood pellets and briquettes, dried woodchips, clean wood residues, nutshells and olive and other stones | 0.330 | 0.330 | 0.370 |
| S5 | Other solid biomass, including solid biomass of all types which is not listed in Category S4, as well as black and brown liquor | 0.250 | 0.250 | 0.300 |
| S6 | Municipal and industrial waste (non-renewable) and renewable/biologically degradable waste | 0.250 | 0.250 | 0.250 |
| Liquid fuel | L7 | Heavy fuel oil, gas oil, diesel oil, other oil products | 0.442 | 0.442 | 0.442 |
| L8 | Biofuels, including biomethanol, bioethanol, biobutanol, biodiesel and other biofuels | 0.442 | 0.442 | 0.442 |
| L9 | Liquid waste, including biologically degradable waste and non-renewable waste (including pyrolysis oil, melted fat, fat, and spent grain) | 0.250 | 0.250 | 0.290 |
| Gaseous fuel | G10 | Natural gas, LPG, LNG and biomethane | 0.533 | 0.533 | 0.538 |
| G11 | Refinery gas, hydrogen and synthesis gas | 0.450 | 0.450 | 0.450 |
| G12 | Biogas which has been obtained from anaerobic digestion, waste landfill and sewage treatment | 0.428 | 0.428 | 0.428 |
| G13 | Coke gas, blast furnace gas, mining gas and other recoverable gases (except refinery gas) | 0.358 | 0.358 | 0.358 |
| Other | O14 | Waste heat (including exhaust gases of high temperature processes, products of exothermic chemical reaction) | – | – | 0.300 |
| O15 | Nuclear energy | – | – | 0.300 |
| O16 | Solar energy | – | – | 0.300 |
| O17 | Geothermal energy | – | – | 0.300 |
| O18 | Other fuel which is not referred to in this Table | – | – | 0.300 |

**II. Efficiency Coefficients for Separate Production of Thermal Energy**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Fuel | Category | Type of fuel | Type of use of thermal energy | | |
| Hot water | Vapour1 | Direct use of waste gases2 |
| Solid Fuel | S1 | Hard coal, including anthracite, bituminous coal, sub-bituminous coal, coke, semicoke, petroleum coke | 0.88 | 0.83 | 0.80 |
| S2 | Lignite, lignite briquettes, shale oil | 0.86 | 0.81 | 0.78 |
| S3 | Peat, peat briquettes | 0.86 | 0.81 | 0.78 |
| S4 | Dry biomass, including wood pellets and briquettes, dried woodchips, clean wood residues, nutshells and olive and other stones | 0.86 | 0.81 | 0.78 |
| S5 | Other solid biomass, including solid biomass of all types which is not listed in Category S4, as well as black and brown liquor | 0.80 | 0.75 | 0.72 |
| S6 | Municipal and industrial waste (non-renewable) and renewable/biologically degradable waste | 0.80 | 0.75 | 0.72 |
| Liquid fuel | L7 | Heavy fuel oil, gas oil, diesel oil, other oil products | 0.85 | 0.80 | 0.77 |
| L8 | Biofuels, including biomethanol, bioethanol, biobutanol, biodiesel and other biofuels | 0.85 | 0.80 | 0.77 |
| L9 | Liquid waste, including biologically degradable waste and non-renewable waste (including pyrolysis oil, melted fat, fat, and spent grain) | 0.75 | 0.70 | 0.67 |
| Gaseous fuel | G10 | Natural gas, LPG, LNG and biomethane | 0.92 | 0.87 | 0.84 |
| G11 | Refinery gas, hydrogen and synthesis gas | 0.90 | 0.85 | 0.82 |
| G12 | Biogas which has been obtained from anaerobic digestion, waste landfill and sewage treatment | 0.80 | 0.75 | 0.72 |
| G13 | Coke gas, blast furnace gas, mining gas and other recoverable gases (except refinery gas) | 0.80 | 0.75 | 0.72 |
| Other | O14 | Waste heat (including exhaust gases of high temperature processes, products of exothermic chemical reaction) | 0.92 | 0.87 | – |
| O15 | Nuclear energy | 0.92 | 0.87 | – |
| O16 | Solar energy | 0.92 | 0.87 | – |
| O17 | Geothermal energy | 0.92 | 0.87 | – |
| O18 | Other fuel which is not referred to in this Table | 0.92 | 0.87 | – |

Notes.

1These values are used by plants which operate with vapour and have been put into operation after 31 December 2015. If, in calculating the efficiency coefficient for individual production of thermal energy, recovery of condensate is not taken into account for such plants, the values indicated in the Table in case for vapour are increased by 5 percentage points by volume.

2Such values are used if the temperature of waste gases is 250 °C or higher.

Minister for Economics J. Vitenbergs

**Annex 2**

Cabinet Regulation No. 561

2 September 2020

**Correction Factors *z* for Avoided Grid Losses that are Applicable to the Calculation of Efficiency Coefficient for Separate Generation of Electricity**

|  |  |  |
| --- | --- | --- |
| Voltage in the grid to which a cogeneration plant is connected | For electricity exported to the grid | For electricity consumed in a cogeneration plant |
| 345 kV or higher | 1 | 0.976 |
| From 200 up to 345 kV (not included) | 0.972 | 0.963 |
| From 100 up to 200 kV (not included) | 0.963 | 0.951 |
| From 50 up to 100 kV (not included) | 0.952 | 0.936 |
| From 12 up to 50 kV (not included) | 0.935 | 0.914 |
| From 0.45 up to 12 kV (not included) | 0.918 | 0.891 |
| Less than 0.45 kV | 0.888 | 0.851 |

Minister for Economics J. Vitenbergs

**Annex 3**

Cabinet Regulation No. 561

2 September 2020

**Proportion Between the Electric and Thermal Capacity Installed in a Cogeneration Unit for Different Cogeneration Technologies**

|  |  |  |
| --- | --- | --- |
| No. | Cogeneration technology | Energy and heat proportion α |
| 1. | Combined cycle gas turbine with heat recovery | 0.95 |
| 2. | Steam condensing extraction turbine with a steam discharge pipeline for heat supply | 0.45 |
| 3. | Steam backpressure turbine | 0.45 |
| 4. | Gas turbine with heat recovery | 0.55 |
| 5. | Internal combustion engine | 0.75 |

Minister for Economics J. Vitenbergs

**Annex 4**

Cabinet Regulation No. 561

2 September 2020

**Annual Report of a Cogeneration Power Plant**

[*8 March 2022*]

The following information shall be included in the annual report of a cogeneration power plant:

1. General information on the cogeneration power plant:

1.1. the merchant (name, registered office, and registration number);

1.2. the official electronic address;

1.3. the location of the cogeneration power plant (address or cadastre number of the plot of land);

1.4. the year of the putting into operation of the cogeneration power plant or cogeneration unit;

1.5. the installed capacity of the cogeneration power plant or cogeneration unit:

1.5.1. electric (MW);

1.5.2. thermal (MW)1;

1.6. the cogeneration technology;

1.7. the type/types of fuel used;

1.8. the number of employees;

1.9. the user of the useful heat (name, registered office, and registration number);

1.10. the type of use of useful heat (hot water, vapour, or direct use of waste gases);

1.11. the person who, in accordance with Section 1, Clause 5, Sub-clause “a” or “b” of the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing, is regarded the beneficial owner of the capital company and the data allowing to unequivocally identify such person2;

1.12. voltage of the grid to which the cogeneration power plant is connected (kV);

1.13. the contact person (electronic mail address, telephone number) who may be contacted by the Bureau in respect of the planned inspections;

1.14. the contact person (telephone number) who can provide access to the cogeneration power plant to the representatives of the Bureau;

1.15. meter identification numbers.

Notes.

1Thermal capacity installed in the cogeneration power plant which conforms to the gross amount of thermal capacity specified by the producer of cogeneration units installed at the power plant.

2If due to objective reasons the merchant is not able to ascertain the person to be deemed as the beneficial owner of the capital company or is not able to obtain individual information on the abovementioned person, or if there is no such person, the merchant shall indicate the reason due to which information on the beneficial owner of the capital company is not provided.

2. Information on the operation of a cogeneration power plant:

2.1. information on the fuel consumed at the cogeneration unit1 (by months, in total per annum):

2.1.1. consumption of gas (1000 m3);

2.1.2. lowest calorific value of gas (MWh/1000 m3);

2.1.3. consumption of gas (MWh);

2.1.4. price of gas2 (EUR/1000 m3);

2.1.5. consumption of liquid fuel (t);

2.1.6. lowest calorific value of liquid fuel (MWh/t);

2.1.7. consumption of liquid fuel (MWh);

2.1.8. price of liquid fuel (EUR/t);

2.1.9. consumption of solid fuel (m3 ber);

2.1.10. density of solid fuel (kg/m3 ber);

2.1.11. lowest calorific value of solid fuel (MWh/t);

2.1.12. consumption of solid fuel (MWh);

2.1.13. price of solid fuel (EUR/m3 ber);

2.1.14. total consumption of solid fuel (MWh);

2.2. information on the thermal energy produced and used at the cogeneration unit (by months, in total per annum):

2.2.1. thermal energy produced at the cogeneration unit (MWh);

2.2.2. useful heat sold to the user (MWh);

2.2.3. the selling price of the useful heat (EUR/MWh);

2.3. information on the type of fuel used at the biogas production installation4 for the production of biogas (by months, in total per annum):

2.3.1. the name of the raw material of the fuel in accordance with Annex 7 to this Regulation:

2.3.1.1. consumption at natural expression (t; m3 (indicate as appropriate));

2.3.1.2. the proportion of the total amount of raw materials (%);

2.4. information on electricity generated, sold, and purchased at the cogeneration unit (by months, in total per annum):

2.4.1. electricity generated (MWh);

2.4.2. electricity transferred into the network (MWh), including:

2.4.3. sold within the scope of the mandatory procurement (MWh);

2.4.4. sold on electricity market (MWh);

2.4.5. electricity purchased (MWh);

2.4.6. total actual efficiency coefficient of the cogeneration unit3 (%);

2.4.7. electricity to be recognised as generated in cogeneration (MWh);

2.4.8. the selling price of electricity generated in cogeneration (EUR/MWh);

3. A copy of the contract for the sale of useful heat in force during the annual report period.

4. A copy of the decision by the regulator on the tariff for thermal energy (if applicable).

5. Copies of documents certifying the amount and price of the thermal energy sold on a monthly basis.

6. Auditor’s report.

7. Determination of the calorific value of the fuel:

7.1. description of the determination of the calorific value of the fuel used;

7.2. an example of a calculation of the calorific value of the fuel used.

8. Information on measuring equipment and measuring equipment systems:

8.1. a list of measuring equipment and measuring equipment systems, identification numbers, and verification or calibration dates;

8.2. a description of the operation of the fuel measuring equipment or measuring equipment systems used (if applicable);

8.3. a description of the operation of the measuring equipment or systems of measuring equipment for the raw materials of biogas used in the biogas plant (if applicable).

9. Copies of documents relating to the measurements carried out in laboratories.

10. Explanatory memorandum on the changes made to the cogeneration power plant during the reference year, including the elements of the cogeneration power plant affected by the changes.

11. Information on the depreciation of the fixed assets of the power plant.

Notes.

1Information on those types of fuel which have actually been consumed shall be provided. Gaseous fuels shall be indicated according to the sample of natural gas. Bulk fuels (woodchips, wood shavings, biomass to be measured in cubic metres) shall be indicated according to the sample of woodchips. Other types of fuel shall be indicated according to the sample of fuel oil.

2All prices and tariffs shall be indicated excluding VAT. The tariff of natural gas and consumption shall be indicated, taking into account the actual or regulatory lowest thermal capacity which by choice of the applicant is used in the information table.

3Calculated, using the formula referred to in Sub-paragraph 26.1 of this Regulation.

4Completed by the merchant which produces electricity in a biogas power plant.

Minister for Economics J. Vitenbergs

**Annex 5**

Cabinet Regulation No. 561

2 September 2020

**Calculation of Adjustment of the Capacity Component**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Day, month, year, hour1 | Amount of the electricity sold2 (MWh) | Electricity stock exchange spot price3 (EUR/MWh) | Variable costs of cogeneration4 (EUR/MWh) | Calculation of additional revenue5 (EUR) [(3) – (4)] x (2) |
| (1) | (2) | (3) | (4) | (5) |
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| **In total per day** |  |  |  |  |
| **[…]** |  |  |  |  |
| **Monthly adjustment of the capacity component** (in euros)6 |  |  |  |  |

Notes.

1To be submitted starting with the hour in which the amount of electricity generated by the cogeneration plant and sold to the merchant is greater than the value calculated, using the following formula:

*P* × 1200 where

*P*– electric capacity installed in a cogeneration plant (MW).

For cogeneration plants which are located in one licensing zone of a heating system operator, belong to one merchant, and are connected to an electricity transmission system, the amount of electricity sold after reaching of which calculation of adjustment of the capacity component must be commenced shall be determined by summing up and multiplying the total electric capacity installed in cogeneration plants by 1200 hours. The accounting of electricity amount shall be commenced on 1 November of each year.

2The amount shall be indicated in MWh with accuracy of three decimal places.

3The hourly electricity stock exchange spot price shall be determined according to the spot price of the price district of Latvia of *Nordpoolspot* stock exchange in EUR/MWh with accuracy of two decimal places.

4Variable costs of cogeneration (EUR/MWh) with accuracy of two decimal places shall be calculated, using the following formula:

 where

*Tg* – actual final price of natural gas used as fuel in the cogeneration plant, excluding VAT and excise duty for natural gas (EUR/MWh);

*Ta* – excise duty for natural gas (EUR/MWh) if such is applied to the cogeneration plant;

*CO2* – the European Emission Allowances (EUA) price determined in the Intercontinental Exchange (ICE) (EUR/t).

5Additional revenues (EUR) with accuracy of two decimal places shall be calculated for each hour, deducting the variable costs of cogeneration (Box 4) from electricity stock exchange price (Box 3) and multiplying the result by the amounts of energy sold (Box 2).

6Adjustment of the capacity component shall be calculated by multiplying the total sum of monthly additional revenue (Box 5) by coefficient 0.75. If adjustment of the capacity component is a negative figure, it shall be assumed as equivalent to zero.

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**Annex 6**

Cabinet Regulation No. 561

2 September 2020

**Amount of Natural Gas Consumption for the Value of the Coefficients *kAER*, *kgst*, and *k* Depending on the Electric Capacity Installed in the Cogeneration Plant**

[*8 March 2022*]

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| No. | Installed electric capacity of a cogeneration unit | Value of the coefficient k*AER* | Value of the coefficient *k* | Amount of the consumption of natural gas per year, (n. m3) | Value of coefficient *kgst* |
| 1. | Not exceeding 0.08 MW | 217.002 | 1.240 | 25000–126000 | 99.82 |
| 2. | Greater than 0.08 MW but not exceeding 0.15 MW | 194.925 | 1.231 | 126000–1260000 | 65.39 |
| 3. | Greater than 0.15 MW but not exceeding 0.20 MW | 190.333 | 1.202 |
| 4. | Greater than 0.20 MW but not exceeding 0.40 MW | 179.090 | 1.131 |
| 5. | Greater than 0.40 MW but not exceeding 0.60 MW | 171.965 | 1.086 |
| 6. | Greater than 0.60 MW but not exceeding 0.80 MW | 169.748 | 1.072 |
| 7. | Greater than 0.80 MW but not exceeding 1.00 MW | 167.056 | 1.055 |
| 8. | Greater than 1.00 MW but not exceeding 1.50 MW | 153.988 | 1.035 | 1260000–12600000 | 45.63 |
| 9. | Greater than 1.50 MW but not exceeding 2.00 MW | 149.971 | 1.008 |
| 10. | Greater than 2.00 MW but not exceeding 2.50 MW | 147.590 | 0.992 |
| 11. | Greater than 2.50 MW but not exceeding 3.00 MW | 146.103 | 0.982 |
| 12. | Greater than 3.00 MW but not exceeding 3.50 MW | 144.912 | 0.974 |
| 13. | Greater than 3.50 MW but not exceeding 4.00 MW | 143.573 | 0.965 |
| 14. | Greater than 4.00 MW but not exceeding 20.00 MW | 128.1 | 0.905 | 12600000–20000000 | 32.27 |
| 15. | Greater than 20.00 MW but not exceeding 40.00 MW |  |  | 20000000–100000000 | 22.51 |
| 16. | Greater than 40 MW |  |  | Above 100000000 | 9.82 |

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**Annex 7**

Cabinet Regulation No. 561

2 September 2020

**Raw Materials of the Fuel to be Used in Biogas Production Installations for the Production of Biogas**

1. Algae if cultivated on land in ponds or photobioreactors.

2. Biomass fraction of mixed municipal waste originating from private households but not collected by segregation of the waste stream by type and nature of waste.

3. Biological waste in accordance with the laws and regulations regarding waste management originating from private households and collected by segregation of the waste stream by type and nature of waste.

4. Biomass fraction of industrial waste not fit for use in the food or feed chain and other organic waste and production residual products, including materials from the retail and wholesale, and agricultural production, and food production and processing, fisheries and aquaculture sectors.

5. Straw.

6. Manure and sewage sludge.

7. Palm oil mill effluent and empty palm fruit bunches.

8. Tall oil pitch.

9. Crude glycerine.

10. Bagasse.

11. Grape marc and wine lees.

12. Nut shells.

13. Husks.

14. Cobs cleaned of kernels of corn.

15. Biomass fraction of wastes and residues from forestry and forest-based industries, i.e. bark, branches, pre-commercial thinnings, leaves, needles, tree tops, saw dust, cutter shavings, black liquor, brown liquor, fibre sludge, lignin, and tall oil.

16. Other non-food cellulosic material.

17. Other ligno-cellulosic material except saw logs and veneer logs.

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**Annex 8**

Cabinet Regulation No. 561

2 September 2020

**Calculation of the Internal Rate of Return of the Total Capital Investments of a Cogeneration Plant**

[*8 March 2022*]

**I. Calculation process for the internal rate of return of the total capital investments of a cogeneration plant**

1. The internal rate of return is the value of the discount rate at which the present value of the discounted cash flow is equal to the value of the capital initially invested. The internal rate of return shall be calculated for the last year in which the merchant may exercise the rights granted in accordance with Section 28 or 28.1 of the Electricity Market Law. The internal rate of return shall be calculated by taking into account the principle of the uniform technological cycle of the cogeneration plant:

1.1. the calculation of the internal rate of return shall be based on the data on investments made in the cogeneration plant, data on actual revenues and expenditures, and benchmarks for operating costs. If the merchant is unable to provide any of the actual revenue or expenditure data for the cogeneration plant, the benchmarks set out in the Annex shall be used to calculate the internal rate of return for the period of time for the settlement of accounts of not less than one month;

1.2. the data necessary for the calculation on the amount and price of the electricity purchased within the scope of the mandatory procurement shall be requested by the Bureau from the public trader.

2. The internal rate of return shall be calculated by gradual iteration steps, using the following formula:

|  |  |
| --- | --- |
|  | where |

*TNPt* – net cash flow or cash flow (in euros) remaining at the disposal of the merchant after all production costs have been covered, in calendar year *t*;

*r*– internal rate of return (%);

*t*– calendar year for which the calculation is made;

*t0* – calendar year in which the merchant started to use the State aid;

*n*– calendar year in which the rights granted to the merchant in accordance with Section 28 or 28.1 of the Electricity Market Law expire;

*Istac* – the actual values (in euros) of the investments made by the merchant in the cogeneration plant, according to the submitted supporting documentation;

*Ipiesl* – the actual costs (in euros) of the electricity connection of the power plant of the merchant to the electricity network according to the submitted supporting documentation;

*Dt0* – public funding (in euros) granted and actually received for the cogeneration plant of the merchant up to calendar year *t0* (excluding), including payments from the State or local government budget, loan interest rate subsidies, and also other financial assistance that is granted or provided from the State, local government, or European Union budget funds and foreign financial assistance funds.

3. If the merchant has made investments in the cogeneration plant before the decision to grant the right in accordance with Section 28 or 28.1 of the Electricity Market Law has been taken, the investments in the cogeneration plant may be determined according to the benchmarks:

*I*0 = *Pel t0* × *I*ī*p* × 1000 where

*Pel t0*– the installed electrical capacity (MW) of the cogeneration plant, as specified in the contract with the public trader, in calendar year *t0*;

*I*ī*p* – specific investment benchmarks (EUR/kW) in accordance with Table 1 of this Annex.

4. The net cash flow in calendar year *t* shall be calculated, using the following formula:

|  |  |
| --- | --- |
|  | where |

 – the net cash flow or cash flow (in euros) remaining at the disposal of the merchant after all production costs have been covered, in calendar month *i* of calendar year *t*;

*Ipap\_t*– the actual value of additional investments (in euros) made in the cogeneration plant in order to ensure the technological functions of the cogeneration plant or to increase the electrical capacity of the cogeneration plant according to the production technology and the principle of the uniform technological cycle, in calendar year *t*;

*Dt* – public financing (in euros) granted and actually received for the cogeneration plant of the merchant in calendar year *t*, including payments from the State or local government budget, loan interest rate subsidies, and also other financial assistance that is granted or provided from the State, local government, or European Union budget funds and foreign financial assistance funds.

5. The net cash flow in calendar month *i* of calendar year *t* shall be calculated, using the following formula:

|  |  |
| --- | --- |
|  | where |

 – the revenues of the cogeneration plant (in euros) in calendar month *i* of calendar year *t*;

 – the expenditures of the cogeneration plant (in euros) in calendar month *i* of calendar year *t*.

6. The revenues of the cogeneration plant in calendar month *i* of calendar year *t* shall be calculated, using actual data or benchmarks:

6.1. the revenues of the cogeneration plant (in euros) in calendar month *i* of calendar year *t*, calculated using actual data:

|  |  |
| --- | --- |
|  | where |

 – the amount of electricity (MWh) purchased from the cogeneration plant of the merchant within the scope of the mandatory procurement in calendar month *i* of calendar year *t*. For future periods, the monthly amount of electricity purchased from the power plant of the merchant within the scope of the mandatory procurement shall be calculated as the average monthly amount of electricity purchased within the scope of the mandatory procurement for the last three full calendar years, but not exceeding the maximum allowed amount of electricity to be purchased within the scope of the mandatory procurement;

 – the electricity procurement price (EUR/MWh) applied to the cogeneration plant of the merchant in calendar month *i* of calendar year *t*. The trade price of natural gas for the future period necessary for the calculation of the procurement price of the electricity generated in natural gas cogeneration plants shall be determined as the average trade price of natural gas for the last full calendar year;

 – the actual subsidised electricity tax withheld (in euros) in calendar month *i* of calendar year *t*;

 – the revenues (in euros) of the merchant from the electricity generated and sold at the cogeneration plant and not sold within the scope of the mandatory procurement during calendar month *i* of calendar year *t*. For the purpose of calculating revenues in the future period, the electricity price shall be determined as the average of the last three full calendar years of electricity sold per month outside the mandatory procurement, and the amount of electricity shall be calculated as the average of the last three full calendar years of electricity sold per month outside the mandatory procurement;

 – the selling price of thermal energy or the thermal energy production tariff (EUR/MWh) set by the Public Utilities Commission according to the submitted supporting documentation in calendar month *i* of calendar year *t*. For future periods, the thermal energy price shall be determined as the average monthly thermal energy price for the last full calendar year;

 – the amount of useful heat produced in the cogeneration power plant (MWh) in calendar month *i* of calendar year *t*. For future periods, the monthly useful heat produced shall be calculated as the average monthly useful heat produced over the last three full calendar years;

6.2. the revenues of the cogeneration plant (in euros) in calendar month *i* of calendar year *t*, calculated using benchmarks:

|  |  |
| --- | --- |
|  | where |

 – the thermal energy production tariff (EUR/MWh) in accordance with Table 8 of this Annex in calendar month *i* of calendar year *t*. For future periods, the thermal energy production tariff shall be determined as the average monthly thermal energy production tariff of the last full calendar year;

 – the net installed thermal capacity (MW) of the cogeneration plant in calendar month *i* of calendar year *t*;

– the operating hours (h) of the cogeneration plant of the merchant in calendar month of calendar year *t*;

 – the thermal energy used for self-consumption in the cogeneration power plant in calendar month *t* of calendar year *i*. The amount of thermal energy used for self-consumption for plants operating with landfill gas and for biogas plants using fermenters for biogas production shall be 30 % and for other cogeneration plants – zero;

6.3. the actual revenues (in euros) of the cogeneration plant receiving the guaranteed payment for the electric capacity installed in the cogeneration plant in calendar month *i* of calendar year *t*, calculated using actual data:

|  |  |
| --- | --- |
|  | where |

 – the guaranteed payment (in euros) for the electric capacity installed in the cogeneration plant in calendar month *i* of calendar year *t*;

6.4. the revenues (in euros) of the cogeneration plant receiving the guaranteed payment for the electric capacity installed in the cogeneration plant in calendar month *i* of calendar year *t*, calculated using benchmarks:

|  |  |
| --- | --- |
|  | where |

 – retail price of electricity (EUR/MWh) in accordance with Table 7 of this Annex. For cogeneration plants for which the guaranteed payment is settled for the electric capacity installed in the cogeneration plant, the price of electricity for the future period shall be determined as the average price of the last full calendar year;

– the installed electrical capacity (MW) of the power plant as specified in the contract with the public trader.

7. The net installed thermal capacity of the cogeneration plant in calendar month *i* of calendar year *t* shall be calculated, using the following formula:

|  |  |
| --- | --- |
|  | where |

– the thermal capacity installed in the cogeneration plant which conforms to the gross amount of thermal capacity specified by the producer of cogeneration units installed in the cogeneration plant (MW).

8. The operating hours of the cogeneration plant in calendar month *i* of calendar year *t* shall be calculated, using the following formula:



9. The expenditures of the cogeneration plant (in euros) in calendar month *i* of calendar year *t*  shall be calculated, using actual data or benchmarks:

9.1. the biomass power plant expenditures (in euros) in calendar month *i* of calendar year *t* , calculated using actual data:

|  |  |
| --- | --- |
|  | where |

– the amount of fuel consumed (MWh) which is required for the operation of the cogeneration plant of the merchant in calendar month *i* of calendar year *t*. For future periods, the monthly fuel consumption shall be calculated as the average of the last three full calendar years of monthly fuel consumption at the cogeneration plant;

– the actual price of the fuel (EUR/MWh) according to the submitted supporting documentation. For future periods, the fuel price shall be determined as the average monthly fuel price for the last full calendar year;

*I kop*– the amount of total actual investments in the cogeneration plant (in euros);

0.11 – coefficient representing the share of the operating costs of the cogeneration plant in the investments made, as set out in Table 2 of this Annex;

*Nt* – the supervision fee for the use of the State aid granted for the generation of electricity and the State fee for the regulation of public services in calendar year *t* (in euros). For the calculations in future periods, the amount of the fee shall be assumed to be that of the last full calendar year;

– the capacity charge for electricity producers, determined according to the installed electricity generation capacity and in accordance with the tariff set by the Public Utilities Commission, in calendar month *i* of calendar year *t* (in euros). For the calculations in future periods, the amount of the capacity fee shall be assumed to be that of the last full calendar year;

9.2. the biomass power plant expenditures (in euros) in calendar month *i* of calendar year *t* , calculated using benchmarks:

|  |  |
| --- | --- |
|  | where |

– the calculated amount of fuel consumed (MWh) which is required for the operation of the power plant of the merchant in calendar month *i* of calendar year *t*. For future periods, the monthly fuel consumption shall be calculated as the average of the last three full calendar years of monthly fuel consumption at the cogeneration plant;

– the biomass fuel price benchmark (EUR/MWh) set out in Table 6 of this Annex in calendar month *i* of calendar year *t*. For future periods, the fuel price shall be determined as the average monthly fuel price for the last full calendar year;

9.3. the expenditures of biogas plants (in euros) in calendar month *i* of calendar year *t* , calculated using actual data:

|  |  |
| --- | --- |
|  | where |

*Lbiog* – the operating cost benchmark for the biogas cogeneration power plant set out in Table 3 of this Annex, depending on the year and the proportion of organic waste and production residual products in the total amount of raw materials. The lowest operating cost benchmark specified in Table 3 of this Annex for the given calculation period shall be used in the calculations. If the merchant proves, through supporting documentation, a higher proportion of organic waste and production residual products in the total amount of raw materials, a higher corresponding benchmark specified in Table 3 of this Annex shall be used in the calculation.

For the future period, the lowest benchmark for operating costs in Table 3 of this Annex shall be used for the given calculation period. If the merchant proves, by submitting supporting documentation, that the average of the last three full calendar years of organic waste and production residual products as a percentage of the total amount of raw materials exceeds the specified minimum percentage of organic waste and production residual products as a percentage of the total amount of raw materials, the amount of organic waste for the future period shall be determined as the average of the last three full calendar years of organic waste per calendar month and a higher corresponding benchmark specified in Table 3 of this Annex shall be used in the calculation;

9.4. the expenditures of biogas plants (in euros) in calendar month *i* of calendar year *t* , using benchmarks for the calculation:

|  |  |
| --- | --- |
|  | where |

– the biogas and landfill gas fuel price benchmark (EUR/MWh) specified in Tables 4 and 5 of this Annex for calendar month *i* of calendar year *t*. For future periods, the fuel price shall be determined as the average monthly fuel price for the last full calendar year;

9.5. the expenditures of natural gas plants (in euros) in calendar month *i* of calendar year *t* , calculated using actual data:

|  |  |
| --- | --- |
|  | where |

– the price of carbon dioxide emission allowances (EUR/t) according to the submitted supporting documentation. For future periods the price shall be based on financial contract price quotations. If the fuel incineration capacity is 20 MW or less, the value shall be equal to zero;

0.05 – coefficient representing the share of the operating costs of the cogeneration plant in the investments made, as set out in Table 2 of this Annex;

9.6. the expenditures of natural gas plants (in euros) in calendar month *i* of calendar year *t* , using benchmarks for the calculation:

|  |  |
| --- | --- |
|  | where |

– the natural gas fuel price benchmark (EUR/MWh) set out in Table 9 of this Annex in calendar month *i* of calendar year *t*. For future periods, the fuel price shall be determined as the average monthly fuel price of the last full calendar year.

10. The calculated amount of fuel consumed in calendar month *i* of calendar year *t*  shall be determined, using the following formula:

|  |  |
| --- | --- |
| Diagram  Description automatically generated | where |

electricity generated and used for self-consumption (MWh) to be determined as the average over the previous three years of the difference between the electricity generated and the electricity transferred into the network over the year;

*ηkoģ* – the efficiency coefficient of the cogeneration unit which characterises the average efficiency of the cogeneration plant. The efficiency coefficient of the unit shall be specified in the technical documentation of the unit. If such is not available, the efficiency coefficient for natural gas cogeneration plants shall be determined in the amount of 90 % and for biomass and biogas cogeneration plants – in the amount of 80 %.

11. The total actual investments made in the cogeneration plant (in euros) shall be calculated, using the following formula:

*Ikop* = *Istac* + *Ipap* where

*Ipap* – the amount of additional actual investments made in the cogeneration plant of the merchant, including capitalised repair costs (in euros).

12. In the calculation carried out in accordance with this Annex, monetary values shall be rounded to the nearest cent, taking into account the third decimal place. If the third character after comma is from 0 to 4, the value of cent shall not change. If the third character after comma is from 5 to 9, the cent is rounded up by one cent.

**II. Benchmarks for the calculation of the internal rate of return of the total capital investments of a cogeneration plant**

Table 1.

**Benchmarks for specific investments of cogeneration plants in *Iīp* (EUR/kWel)**

|  |  |  |  |
| --- | --- | --- | --- |
| Installed electric capacity *Pel* | Biogas plants | Biomass and biomass gasification plants | Natural gas plants |
| Not exceeding 0.5 MW | 4000 | 4500 | 1600 |
| Greater than 0.5 MW but not exceeding 1 MW | 3800 | 4500 | 1600 |
| Greater than 1 MW but not exceeding 2 MW | 3800 | 4000 | 1300 |
| Greater than 2 MW but not exceeding 4 MW | 3300 | 4000 | 1100 |
| Greater than 4 MW | 3300 | 3600 | – |

Table 2.

**Operating cost benchmarks for a cogeneration plant**

|  |  |
| --- | --- |
| Technology | Benchmarks |
| Biomass plants | 11 % of the investments made in the cogeneration plant, per annum |
| Natural gas plants | 5 % of the investments made in the cogeneration plant, per annum |

Table 3.

**Operating cost benchmark for biogas cogeneration plants**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | Until 2022 | From 2022 to 2025 | From 2026 to 2029 | From 2030 | Operating costs as % of the investments made in the power plant (per year) |
| Proportion of organic waste and production residual products to the total amount of raw materials consumed in biogas production (%) | less than 50 % | at least 40 % but not more than 50 % | – | – | 6 % |
| at least 50 % but not more than 70 % | | at least 60 % but not more than 70 % | – | 9 % |
| at least 70 % but not more than 80 % | | | at least 80 % but not more than 90 % | 12 % |
| at least 80 % | | | at least 90 % | 13 % |

Table 4.

**Fuel price benchmarks applicable to biogas plants (except for plants using biomass gasification or landfill gas)**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Installed electric capacity *Pel* | Fuel price, excluding VAT Ckur (EUR/MWh) | | | | | | | | |
| **2008.** | **2009.** | **2010.** | **2011.** | **2012.** | **2013.** | **2014.** | **2015.** | **2016.** |
| Not exceeding 0.5 MW | 51.08 | 40.51 | 30.98 | 35.47 | 42.39 | 43.65 | 46.31 | 48.14 | 51.83 |
| Greater than 0.5 MW but not exceeding 1 MW | 48.11 | 38.15 | 29.19 | 33.41 | 39.93 | 41.12 | 43.62 | 45.35 | 48.82 |
| Greater than 1 MW | 46.15 | 36.60 | 27.99 | 32.05 | 38.30 | 39.44 | 41.84 | 43.49 | 46.83 |
|  | **2017.** | **2018.** | **2019.** | **2020.** | **2021.** | **2022.** |  |  |  |
| Not exceeding 0.5 MW | 52.38 | 50.98 | 48.00 | 53.28 | 52.47 | 51.65 |  |  |  |
| Greater than 0.5 MW but not exceeding 1 MW | 49.34 | 48.02 | 45.21 | 49.93 | 49.16 | 48.40 |  |  |  |
| Greater than 1 MW | 47.32 | 46.06 | 43.37 | 49.93 | 49.16 | 48.40 |  |  |  |

Table 5.

**Landfill gas price benchmarks**

|  |  |
| --- | --- |
| Installed electric capacity *Pel* | Fuel price, excluding VAT *Ckur* (EUR/MWh) |
| all years |
| All capacities | 10 |

Table 6.

**Fuel price benchmarks applicable to biomass and biomass gasification plants**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Fuel price, excluding VAT *Ckur* (EUR/MWh) | | | | | | | | | |
| **1995.** | **1996.** | **1997.** | **1998.** | **1999.** | **2000.** | **2001.** | **2002.** | **2003.** | **2004.** |
| 3.73 | 3.67 | 3.59 | 3.77 | 3.94 | 4.22 | 4.61 | 5.16 | 5.67 | 5.99 |
| **2005.** | **2006.** | **2007.** | **2008.** | **2009.** | **2010.** | **2011.** | **2012.** | **2013.** | **2014.** |
| 6.31 | 7.37 | 8.6 | 11.06 | 8.6 | 7.37 | 8.6 | 8.6 | 11.06 | 9.83 |
| **2015.** | **2016.** | **2017.** | **2018.** | **2019.** | **2020.** | **2021.** | **2022.** |  |  |
| 9.83 | 8.6 | 8.6 | 12.29 | 13.07 | 11.02 | 14.49 | 12.73 |  |  |

Table 7.

**Retail prices of electricity (EUR/MWh) from 1995 to 2020**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Retail prices of electricity (EUR/MWhe) |  | Year | Retail prices of electricity (EUR/MWhe) |
| **1995.** | 27.03 |  | **2008.** | 41.45 |
| **1996.** | 35.57 |  | **2009.** | 39.70 |
| **1997.** | 39.65 |  | **2010.** | 42.26 |
| **1998.** | 43.08 |  | **2011.** | 48.09 |
| **1999.** | 43.08 |  | **2012.** | 46.67 |
| **2000.** | 43.08 |  | **2013.** | 50.77 |
| **2001.** | 43.08 |  | **2014.** | 54.90 |
| **2002.** | 43.08 |  | **2015.** | 46.12 |
| **2003.** | 43.08 |  | **2016.** | 39.31 |
| **2004.** | 47.15 |  | **2017.** | 38.61 |
| **2005.** | 48.88 |  | **2018.** | 54.97 |
| **2006.** | 48.88 |  | **2019.** | 51.02 |
| **2007.** | 28.75 |  | **2020.** | 34.07 |

Table 8.

**Thermal energy production tariff (EUR/MWh) from 1995 to 2022**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Year | Thermal energy production tariff (EUR/MWh)\* |  | Year | Thermal energy production tariff (EUR/MWh) |
| **1995.** | 11.67 |  | **2009.** | 39.16 |
| **1996.** | 12.12 |  | **2010.** | 38.44 |
| **1997.** | 12.24 |  | **2011.** | 38.44 |
| **1998.** | 12.28 |  | **2012.** | 42.06 |
| **1999.** | 12.33 |  | **2013.** | 39.16 |
| **2000.** | 12.38 |  | **2014.** | 32.63 |
| **2001.** | 12.38 |  | **2015.** | 31.91 |
| **2002.** | 12.38 |  | **2016.** | 26.11 |
| **2003.** | 12.38 |  | **2017.** | 26.11 |
| **2004.** | 12.38 |  | **2018.** | 26.83 |
| **2005.** | 16.51 |  | **2019.** | 24.99 |
| **2006.** | 21.76 |  | **2020.** | 23.28 |
| **2007.** | 26.11 |  | **2021.** | 21.68 |
| **2008.** | 36.99 |  | **2022.** | 20.20 |

Note. \* The thermal energy production tariff shall consist of the average price of thermal energy for final consumers multiplied by the coefficient 0.7252 (the share of the production tariff in the final tariff).

Table 9.

**Benchmarks for the trade price of natural gas, including the excise duty**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Year** | **1995.** | **1996.** | **1997.** | **1998.** | **1999.** | **2000.** | **2001.** | **2002.** |
| Average annual trade price of natural gas, EUR/MWh (excluding VAT) | 12.19 | 14.34 | 15.59 | 16.26 | 16.60 | 17.04 | 17.47 | 17.81 |
| **Year** | **2003.** | **2004.** | **2005.** | **2006.** | **2007.** | **2008.** | **2009.** | **2010.** |
| Average annual trade price of natural gas, EUR/MWh (excluding VAT) | 18.34 | 19.47 | 20.82 | 22.18 | 24.42 | 36.06 | 37.74 | 39.57 |
| **Year** | **2011.** | **2012.** | **2013.** | **2014.** | **2015.** | **2016.** | **2017.** | **2018.** |
| Average annual trade price of natural gas, EUR/MWh (excluding VAT) | 41.38 | 49.14 | 47.35 | 45.89 | 40.72 | 33.20 | 35.66 | 38.75 |
| **Year** | **2019.** | **2020.** | **2021.** | **2022.** |  |  |  |  |
| Estimated annual trade price of natural gas, EUR/MWh (excluding VAT) | 37.48 | 27.10 | 24.66 | 23.99 |  |  |  |  |