

Michał Motylewski

Managing Counsel



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Overview

Michał Motylewski, attorney-at-law, is a managing counsel in Dentons' Warsaw office and a member of the Warsaw Energy and Natural Resources practice team. Michał specializes in Energy Law and, in particular, in issues relating to the development of the EU's internal market in electricity and gas and the implementation of power market reforms in Poland, including the current implementation of the Clean Energy for All Europeans package.

He combines a thorough understanding of regulatory obligations and constraints on the business and operational needs of electricity, heat and natural gas utilities, with unique experience and perspective ranging across all sectors, from upstream to downstream markets. His expertise has been appreciated by clients in cross-border matters including Europe, Central Asia and Indonesia.

Michał represents clients on a regular basis in legislative development projects, his advice being of assistance to both private entities and government authorities (Hungary, Ukraine, Uzbekistan) in developing and applying support systems for renewable energy sources, energy storage facilities, capacity markets and implementation of network codes.

He has extensive experience in the field of cross-border and domestic trading in electricity, heat and natural gas, both in terms of regulatory affairs (tariffs, REMIT, MIFID 2) and contractual relations, including cross-border exchange, capacity allocation and congestion management (CACM) as well as issues relating to the operation of electricity transmission and distribution grids.

He advises many market leaders in complex cases including investment and M&A projects in generation and transmission infrastructure (FIDIC standard and tailored EPC contracts), both within and outside of the EU. He advises on matters relating to grid access and operation, as well as market strategies with regulatory components. He develops models for trading in energy commodities on regulated markets and in cross-border transactions.

Michał Motylewski has advised and represented energy sector enterprises before the Court of Justice of the European Union, the European Commission, national regulatory authorities in Poland (President of URE), Austria (E-Control) and the Czech Republic (ERU). He is often involved as expert advisor in dispute avoidance and dispute resolution cases including arbitration.

Experience

Regulatory

- **European Commission Winter Package of 30 November 2016:** Analytical work on implications of the Commission's proposal for a deep power market reform, regionalisation of power supply and shift of decision making powers.
- **Implementation of the EU Second Package and Third Package in Poland:** Advising on operator's unbundling, advice on divesting networks to independent distribution network operators (DSO) including drafting agreements on entrusting operator's function, certification and licensing of DSO's, on various aspects of the Third Party Access regime (TPA), market balancing services, complex supply and distribution agreements.
- **Polskie Sieci Elektroenergetyczne (PSE), the Polish electricity Transmission System Operator (TSO):** Providing comprehensive legal advice regarding the CACM Regulation (Commission Regulation (EU) no. 1222/2015 of 24 July 2015 establishing a guideline on capacity allocation and congestion) and representing the client in matters concerning the ACER opinion 9/2015 (the EU Agency for Cooperation of Energy Regulators).
- **Polskie Sieci Elektroenergetyczne (PSE), the Polish electricity Transmission System Operator (TSO):** Advising on design and implementation of auction rules both with respect to coordinated cross-border explicit auctions, market coupling and one-sided auctions on external EU border connections.
- **Vertically integrated power group:** Leading complex portfolio review and assessment of the impact of MIFID II on trading activities of the group.

Networks

- **Polskie Sieci Elektroenergetyczne (PSE), the Polish electricity Transmission System Operator (TSO):** Advising on a €120 million acquisition of a power interconnection between Poland and Sweden (SwePol Link). The capacity of the link is 600 MW. The interconnection following the acquisition by PSE and Svenska Krafnat became an inter-TSO project, improving power grid stability in Poland and Scandinavia and operated under the market coupling principle.
- **Polskie Sieci Elektroenergetyczne (PSE), the Polish electricity Transmission System Operator (TSO):** Advising in proceedings before the energy regulator concerning the TSO appointment procedure, and in obtaining a TSO independence certificate.
- **Poland synchronous interconnectors within the CEE Region:** Advising the Polish TSO on auction rules including drafting, use of congestion rent, TSO Security Cooperation (TSC), cooperation related to organising and running a coordinated auction office, advice in dispute resolution relating to congestion management and capacity allocation.
- **Poland-Lithuania HVDC (LitPol Link) electricity interconnector:** Advising the Polish TSO during the process of development of the connection, including setting up the JV between the Polish and Lithuanian TSOs, advice on derogations available for new interconnectors.
- **Poland-Ukraine AC (Zamosc-Dobrotvir) electricity interconnector:** Advising the Polish TSO on congestion management and capacity allocation regime applicable to outside EU borders, advice under the Energy Community Treaty, advice on auction rules including drafting.
- **Confidential clients (CHP):** Advising on structuring of heat and power supply to industrial offtakers, connection of heat sources to heat networks.
- **Various network operators:** Supporting and representing in proceedings related to appointment for operation of selected networks (ISO), approval of network access tariffs.

Project development

Conventional

- **Financial institution:** Acting as a project leader in a complex structuring project for granting securities to a multi-party consortium of contractors engaged in a turn-key 2x 900 MW USC CCPP construction in southern Poland. Advice covered complex relationship between public procurement regime, contractual setup for cooperation of consortium members and financial security instruments.
- **Rafako:** Advising the largest European boiler manufacturing company in relation to setting up market presence in Indonesia and in a tender for construction of two 50 MW units in Lombok, Indonesia.
- **Coal processing company:** Advising on obtaining financing to upgrade existing technical equipment used by a subsidiary of one of the largest producers of high-quality hard coking coal and a major producer of coke in the European Union.
- **Doosan Babcock:** Advising in tenders for turn-key EPC project for construction of a 450 MW lignite power plant in Turów (PGE GiEK S.A.), with contract value of ca. € 1 billion.
- **Vertically integrated power groups and industrial offtakers:** Advising on setting up cooperation (JV) for various green field and brown field projects.

Transport

- **PKP Polskie Linie Kolejowe:** Advising the Polish national rail network operator acting as a leader under a framework agreement for support in rail network development and renovation projects, including funding under domestic and EU aid schemes. Advice included performance and dispute resolution under FIDIC agreements, development of a country wide strategy for managing infrastructure crossings.
- **Financial institution:** Providing legal advice concerning structuring of securities on fuel in transit covering combined advice across six EU jurisdictions.

Power and gas trading

- **Confidential clients:** Providing legal advice related to restructuring of the Polish wholesale electricity market (mandatory trading obligations imposed on generating companies) and public interest obligations of power traders.
- **Confidential clients:** Providing legal assistance in connection with acquisition transactions in the energy sector (including gas fuels) as well as long-term and short-term agreements for delivery of electricity and heat, also on the basis of the EFET standard agreement.
- **Key power utility company:** Representing the client in a number of cross-border power exchange disputes.

Renewables

- **Energix Renewable Energies:** Advising one of Israel's leading renewable energy companies on regulatory, compliance, financing and due diligence of one of the largest operating wind projects in Poland (192 MW).
- **Financing institutions and project developers:** Advising on the functioning of RES support schemes and redesign of the scheme applying in Poland following introduction of the EEAG 2014-2020.
- **Power trading companies:** Advising with respect to end-user tariffs and other statutory obligations resulting out of support schemes for CHP and RES.

Recognition

- *Chambers Europe* 2020 and 2021: ranked in Energy & Natural Resources in Poland (Band 4).
- *Chambers Europe* 2016–2019: Ranked in Energy & Natural Resources in Poland ("up and coming").
- *IFLR1000* 2019: Recommended as a "notable practitioner" in Project development in Energy sector in Poland.

Activities and Affiliations

Prior and Present Employment

- Managing Counsel, Dentons (formerly Salans), Warsaw, 2020 to date
- Counsel, Dentons (formerly Salans), Warsaw, 2013–2020
- Senior Associate, Salans, Warsaw, 2011–2013
- Associate, Salans, Warsaw, 2006–2011
- Associate, Kancelaria Prawna dr Dariusz Kossakowski, Warsaw, 2001–2006

Areas of focus

Practices

- Arbitration
- Commercial Contracts
- Commercial Litigation
- Construction
- Construction and Engineering Disputes
- Energy
- Energy Litigation
- Energy Regulation
- EU Law and Policy
- Environmental Regulation
- Infrastructure and PPP
- International Commercial Arbitration
- Investment Treaty Arbitration
- Mediation
- Operation and Maintenance
- Regulated Industries
- Regulatory and Administrative Tribunals
- State Aid

- Transportation Litigation and Dispute Resolution

Industry sectors

- Biofuels
- Biomass
- Climate Change Strategies
- Cogeneration and CHP
- Contractors and Suppliers
- Conventional Generation
- Developers and Owners
- Downstream
- Energy
- Energy Advocacy
- Energy Joint Ventures
- Energy Market Reform and Regulation
- Energy Mergers and Acquisitions
- Energy Privatization
- Energy Project Approval
- Energy Trading, Marketing, and Derivatives
- Energy Transactions
- Engineering Firms
- Environment and Natural Resources
- Electricity
- Government
- Government Agencies
- Government Contractors and Grantees
- Government Corporations
- Government Sponsored Development Zones and Participants
- Hydroelectricity
- LNG
- Midstream
- National Governments
- Non-Governmental Organizations (NGOs)

- Nuclear
- Oil and Gas
- Rail Operations
- Petrochemicals and Refining
- Pipelines
- Procurement
- Project Finance
- Project Operators
- Rail
- Renewable Energy
- Securities and Corporate Finance
- Shipping
- Solar
- Supply and Retail
- Transmission and Distribution
- Transport Authorities
- Transport Infrastructure: Airports, Bridges, Ports, Rail, Roads
- Transportation Infrastructure and PPP
- Transportation Litigation and Dispute Resolution
- Transportation Regulation
- Unconventional Oil and Gas
- Upstream
- Waste to Energy
- Water
- Wind

Issues and opportunities

- Global Smart Cities & Connected Communities Initiative and Think Tank

Education

- European School of Law and Administration in Warsaw, 2005, LL.M.
- University of Warsaw, 2001, Course, College for Teachers in German
- Wellington College, 1997

Admissions and qualifications

- Attorney-at-law, Poland, 2011

Languages

- English
- German
- Polish
- Russian