

CURRENT REPORT FILED WITH THE POLISH FINANCIAL SUPERVISION AUTHORITY IN WARSAW

DATE: October 16th 2023

Subject: Settlement reached with ENERGA Elektrownie Ostrołęka S.A. [CR N102/2023]**Text of the report:**

Further to (i) Current Report No. 28/2018 of July 24th 2018 announcing the execution of a contract between the Company and ENERGA Elektrownie Ostrołęka S.A. of Ostrołęka (the “Principal”) for the construction of flue gas desulfurisation unit II at the Ostrołęka Power Plant B (the “Contract”), (ii) Current Report No. 3/2021 of January 13th 2021 announcing that the Company was notified of court approval of an arrangement made under the Company’s simplified restructuring procedure (the “Arrangement”), (iii) Current Report No. 32/2021 of September 14th 2021 announcing the receipt by the Company of a certified copy of the decision to approve the Arrangement with a certificate of finality, (iv) Current Report No. 79/2023 of July 25th 2023 announcing the receipt of a final offer from PG Energy Capital Management sp. z o.o. of Warsaw (the “Investor”) (the “Offer”) to subscribe for shares in the Company’s increased share capital and to acquire Company shares held directly or indirectly by PBG S.A. w restrukturyzacji w likwidacji (in restructuring in liquidation) (“PBG”), as well as receipt of a notification that PBG had accepted the Offer and a decision made by the Company’s Management Board to accept the Offer and proceed with the transaction contemplated therein, and (v) Current Report No. 88/2023 of August 25th 2023 announcing the execution of a preliminary investment agreement related to the Offer made by the Investor to subscribe for Company shares and to acquire Company shares held directly or indirectly by PBG, the Management Board of RAFAKO S.A. of Racibórz (the “Company”) hereby announces that on October 16th 2023 a settlement was reached between the Company and the Principal in the course of mediation proceedings before the Arbitration Court at the Office of the General Counsel to the Republic of Poland whereby the Parties agreed on final settlement of the Contract (the “Settlement”).

The key provisions of the Settlement are as follows:

1. Payment by the Principal within three business days of signing the Settlement of the amount due under the final invoice so far withheld from payment, which after deduction as per the Settlement of the fourth instalment under the Arrangement, will equal PLN 14,706,694.56 (fourteen million, seven hundred and six thousand, six hundred and ninety-four zloty, 56/100);
2. Recognition by RAFAKO of liquidated damages charged by the Principal under the Contract, and confirmation by the Parties to the Settlement that claims for payment of those liquidated damages will be reduced in accordance with the terms of the Arrangement as applicable to the third group of claims;
3. Provision that the Principal’s claims against the Company classified as group two and group three claims under the Arrangement, totalling PLN 12,037,348.29 (twelve million, thirty-seven thousand, three hundred and forty-eight zloty, 29/100), will be converted into shares in the Company’s equity on the following terms: i) the issue price per share will be PLN 1.60; ii) the shares will be issued pursuant to the procedure described in Art. 431.2.1 of the Commercial Companies Code, with the existing shareholders’ pre-emptive rights waived; iii) the offering of shares to be subscribed for by the Principal will be carried out as a private placement, by way of the Company’s offer to subscribe for the shares made pursuant to Art. 431.2.1 of the Commercial Companies Code; iv) no special rights will be attached to the shares;

4. Provision that if relevant resolutions of the Company's shareholders do not come into effect by December 31st 2023, the Company will be required to settle all the outstanding payments under the Arrangement to the Principal on the due date of payment of the sixth instalment under the Arrangement, i.e. January 31st 2024;
5. Additional concessions will be granted by the Company to the Principal consisting in:
 - i) extension by one year of the technical warranty for the unit constructed under the Contract;
 - ii) guarantee of a fixed price for a feasibility study to enhance the flexibility of one of the units at ENERGA Elektrownie Ostrołęka S.A., to be prepared by the Company for the Principal;
 - iii) performance by the Company for the Principal of design services for an agreed number of hours.

The Settlement took effect upon its execution.

Legal basis:

Article 17(1) of the Market Abuse Regulation – inside information.

Dawid Jaworski – President of the Management Board

Michał Sikorski – Member of the Supervisory Board delegated to temporarily perform the duties of a member of the Management Board.