

# Administrative procedure for Offshore Wind Farms in Polish maritime areas – how long can it take?



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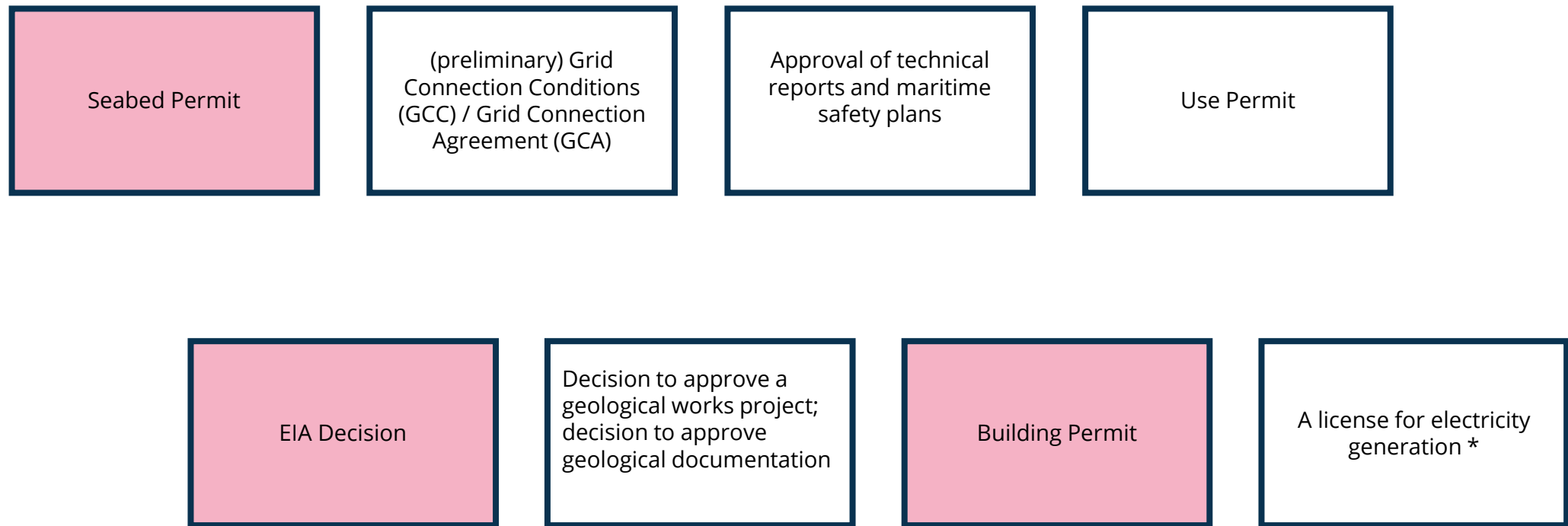
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# 1. The investment decision chain for OWF

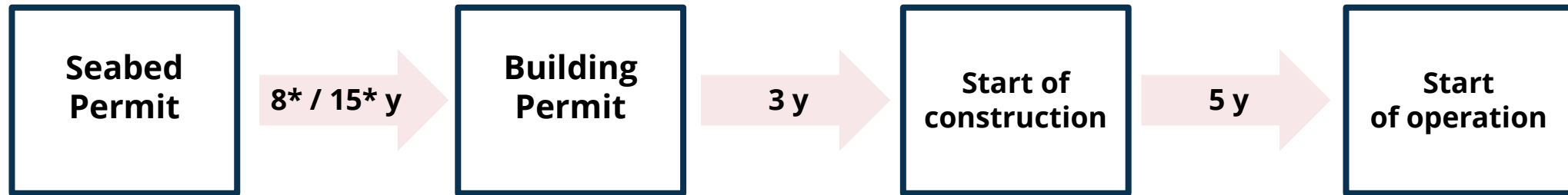
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\* After obtaining a Use Permit for the power evacuation infrastructure.

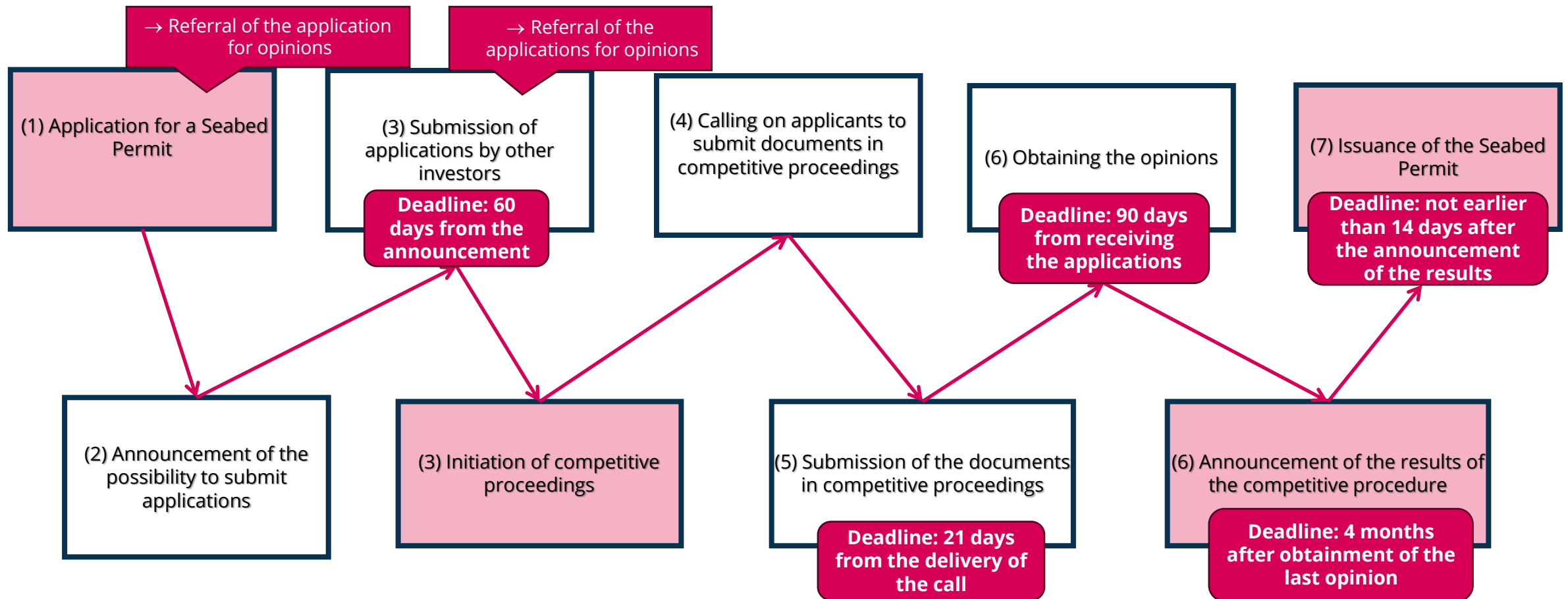
## 2. Timetable framework for OWF implementation resulting from statutory regulations

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\* maximum extension of two years

### 3. Steps in the procedure for issuing a Seabed Permit for an OWF



## 4. Permitting character of phase I projects

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**No defined locations** due to lack of maritime spatial plan for the Polish sea areas.



**Limited competitiveness of the seabed permit proceedings** – often no competitive proceedings, no regulation on detailed evaluation criteria.



**Separate rules for granting support** under the *Offshore* Act (Phase I projects were entitled to support on the basis of an administrative decision by the President of the ERO).

## 5. Example of proceedings for the issuance of the seabed permit for an OWFs

	Project	Entities	Date of application	Adjudication proceedings	Date of issue of a Seabed Permit	Duration of proceedings
Phase I	MFW Baltic II	Polenergia/Equinor	1 August 2011	not	15 January 2013.	17.5 months
	MFW Baltic III	Polenergia/Equinor	1 August 2011	not	30 March 2012	8 months
	Baltica 2	PGE/Orsted	6 October 2011	not	16 April 2012	6.5 months
	Baltica 3	PGE/Orsted	6 October 2011	not	16 April 2012	6.5 months
	Medium:					9.6 months
Phase II	OWF Baltica 1+	PGE	23 November 2021	yes	8 August 2023	20.5 months
	OWF Baltica 2+		23 February 2021	yes	8 August 2023	29.5 months
	OWF Baltica 5		26 January 2022	yes	8 August 2023	18.5 months
	OWF Baltica 7		23 November 2021	yes	8 August 2023	20.5 months
	OWF Baltica 9		26 January 2022	yes	8 August 2023	18.5 months
	Medium:					21.5 months

## 6. Administrative procedure for the implementation of the OWF

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- Under the *Offshore Act*, administrative decisions issued for the OWF are subject to a separate legal regime designed to **streamline proceedings**.
- **Immediate enforceability of certain decisions**: EIA decision, permit required by Water Law Act, decisions issued on the basis of the Geological and Mining Law, Use Permit and the Building Permit are subject to it.
- **Deadline of 90 days for issuing decisions**: the EIA Decision, permit required by Water Law Act, Building Permit. In the case of Use Permit, it is **30 days**.
- **Time limit for appeal: 14 days** from the date of service of the decision on the party or **30 days** from the date of the notice or service of the notice of the decision.
- **Appeals against these decisions shall be heard** within **60 days** of its delivery.



## 7. Administrative procedure for the implementation of the OWF cont.

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- The authority should notify the parties and the **Minister for Climate** of any failure to issue a decision within the time limit / to hear an appeal within the time limit.
- Whenever a Building Permit or Use Permit is not issued in time, the authority competent to consider the case shall also notify **the Chief Inspector of Building Supervision**.
- Failure to issue a decision / not to consider an appeal within the deadline is subject to a **fine of PLN 1,000 PLN per day of delay**. These deadlines do not include, inter alia, deadlines set by law for the performance of certain activities, periods of suspension of proceedings, periods of delay caused by the fault of a party or reasons beyond the control of the authority.
- The Voivodeship Administrative Court examines the **complaint** against these decisions within **30 days** of receiving the file together with the response to the complaint (the authority, in turn, has 15 days to forward it to the court). A **appeal against the sentence** shall be considered by the Supreme Administrative Court within **2 months** from the date of its filing.

## 8. Environmental Impact Assessment

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- Issued on the basis of the *Act on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments* by the **competent Regional Director for Environmental Protection**, after agreeing the conditions for the execution of the project with the competent director of the maritime office and – with regard to power lines – with the state provincial sanitary inspector.
- The EIA Decision can be the basis for issuing a Building Permit **within 10 years** from the date it became final.
- The average time for issuing an EIA Decision for Phase I projects was **19.4 months**, while for issuing a decision to amend the EIA Decision it was **7 months**.
- In the event of an appeal against the EIA Decision, the authority that issued the decision may **suspend its immediate enforcement at the request of a party**.
- The implementation of the EIA Decision **may also be suspended by the administrative court following a complaint against the decision** in a situation where there is a danger of significant damage or difficult to reverse effects. Difficult to reverse effects shall be understood as consequences resulting from the undertaking of the project for which the EIA Decision was issued.

## 9. Examples of EIA proceedings for OWF

L.p.	Project	Entities	Date of application	Date of issuance of the EIA	Duration of proceedings
1.	MFW Baltic II	Polenergia/Equinor	30 November 2015	27 March 2017	16 months
2.	MFW Baltic III	Polenergia/Equinor	28 April 2015	7 July 2016	14 months
3.	Baltica 2 and 3	PGE/Orsted	12 December 2017	24 January 2020	25.5 months
4.	Baltic Power	PKN Orlen/Northland Power	10 July 2020	29 June 2022 (decision by the authority of second instance)	23.5 months
5.	FEW Baltic II	RWE	4 October 2019	30 November 2021	26 months
6.	BC-Wind	Ocean Winds (EDPR/Engie)	6 October 2021	16 September 2022	11.5 months
	<b>Medium:</b>				<b>19.4 months.</b>

## 10. Example of proceedings for the issuance of a EIA Decision amendment for an OWF

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L.p.	Project	Entities	Date of application	Date of issue of the DWA	Duration of proceedings
1.	MFW Baltic II	Polenergia/Equinor	26 January 2021	26 October 2021	9 months
2.	MFW Baltic III	Polenergia/Equinor	13 June 2022	8 November 2022	5 months
3.	Baltic Power	PKN Orlen/Northland Power	2 August 2022	1 March 2023	7 months
	<b>Medium:</b>				<b>7 months</b>

# 11. Building Permit

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- Issued on the basis of a Building Law by **the Voivode**.
- Building Permission is issued on the basis of, inter alia, the Seabed Permit, the cable agreements/permits and the EIA Decision.
- Compliance with the statutory requirements for OWFs and power evacuation in terms of design and construction is confirmed by **certificates of design compliance** issued by recognised certification organisations under the Maritime Security Act.
- The OWF can be built and commissioned **in phases**.
- A change in the siting of offshore wind turbines or other elements of the OWF/power evacuation **does not constitute a significant deviation from the Building Permit** if, together, the conditions are met, i.e. the need to change the siting is due to geological conditions in the basin or the encounter of objects of non-anthropogenic and anthropogenic origin, which could not have been foreseen with due diligence, and the change will not result in the need to change the Seabed Permit or the EIA Decision.

## 12 Building Permit cont.

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In the course of applying for a Building Permit, the developer is also required to submit, among other, decisions approving expert reports:

- 1) A **navigational** assessment of the impact of the OWF and the set of equipment on the safety and efficiency of vessel navigation in Polish maritime areas;
- 2) A **technical** assessment of the impact of the OWF and the set of equipment on: (i) the Polish Maritime Areas A1 and A2 Maritime Distress and Safety System (GMDSS) and the Maritime Search and Rescue Service Operational Communications System; (ii) the National Maritime Safety System (iii) national defence systems, including the radiolocation imaging system, technical observation, maritime radio communications and the air traffic services control system of the Polish Armed Forces;
- (3) An **emergency plan** specifying the types of risks to the health and life of personnel involved in the construction, operation and decommissioning of the offshore wind farm and the set of equipment, the means and procedures to be followed in the event of these risks occurring, and the forces and resources to be provided by the generator to implement this emergency plan;
- (4) An **anti-hazard and pollution control plan** for the OWF and equipment complex.

## 13. The right of environmental organisations to challenge a Building Permit

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- According to Article 86g of the Act of 3 October 2008 on the provision of information on the environment and its protection, public participation in environmental protection and environmental impact assessments:

*"An environmental organisation invoking its statutory objectives, if it has been carrying out statutory activities in the field of environmental or nature protection for a minimum of 12 months prior to the date of initiation of the proceedings on the investment permit, also in case it did not participate in the proceedings conducted by the authority of first instance, or a party to the proceedings on the issuance environmental impact assesment decision, shall have the right to appeal against the investment permit preceded by a environmental impact assesment decision issued in proceedings requiring public participation. In the appeal proceedings, the environmental organisation shall participate as a party."*

- The appeal must be made within 14 days from the date of expiry of the deadline for making the contents of the development permit available (deadline for making it available in the Bulletin of Public Information: 14 days)

## 14. Examples of Building Permits obtained for OWF

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- On **16 August 2023**, the **first Building Permit for the construction of 76 offshore wind turbines (MFW Baltic Power)** was issued - the Investor's application was received by the Authority on 11 May 2023.
- In addition, the project has already received Building Permits for connection infrastructure for, among others, offshore substations and the internal power and telecommunications network (applications: 11 May 2023, issuance of Building Permit: 16 August 2023), for the power connection in the offshore section - onshore part (application: 27 December 2022, issuance of Building Permit: 9 February 2023) or for the 220/400kV mobile station (application: 18 January 2023, issuance of Building Permit: 1 March 2023).
- The execution of the **MFW Baltica 2 and 3** projects is also at an advanced stage, for which Building Permits have already been issued for the connection infrastructure, inter alia for the set of equipment for power evacuation in the onshore area for OWF Baltica-2 (application: 1 March 2023, issuance of Building Permit: 22 May 2023) and for MFW Baltica-3 (application: 1 March 2023, issuance of Building Permit: 18 May 2023), for access road to onshore transformer stations - MFW Baltica-3 (application: 6 March 2023, issuance of Building Permit: 18 May 2023), for onshore transformer station with connection to the National Electricity System – MFW Baltica-3 (application: 6 March 2023, issuance of Building Permit: 28 April 2023).
- The duration of the aforementioned Building Permit proceedings ranged from **approximately 1.5 to 3 months**.



## 15. Use Permit

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- Decision authorising the investor to start operation of the OWF.
- It should be issued within **30 days of** the submission of the application.
- Subject to immediate implementation.
- An electricity generation licence is obtainable **after obtaining the Use Permit**.

# 16. Current status of phase I OWF projects

L.p.	Project	Entities	Power	Status	I decision of the President of ERO	European Commission decision	II decision of the President of ERO
1.	MFW Baltic I	Polenergia/Equinor	1560 MW	GCA	-	-	-
2.	MFW Baltic II	Polenergia/Equinor	720 MW	GCA, EIA Decision	✓	×	×
3.	MFW Baltic III	Polenergia/Equinor	720 MW	GCA, EIA Decision	✓	×	×
4.	Baltica 1	PGE	900 MW	GCA	-	-	-
5.	Baltica 2	PGE/Orsted	1498 MW	GCA, EIA Decision	✓	✓	✓
6.	Baltica 3	PGE/Orsted	1045 MW	GCA, EIA Decision	✓	✓	✓
7.	Baltic Power	PKN Orlen/Northland Power	1197 MW	GCA, EIA Decision, Building Permit	✓	✓	✓
8.	FEW Baltic II	RWE	350 MW	GCA, EIA Decision	✓	×	×
9.	BC-Wind	Ocean Winds (EDPR/Engie)	400 MW	GCA, EIA Decision	✓ (369 MW)	×	×



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