LEGISLATION FOSTERING WIND ENERGY DEVELOPMENT IN UKRAINE

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UKRAINIAN WIND ENERGY ASSOCIATION

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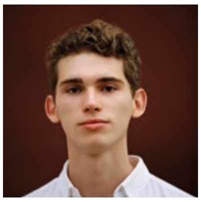

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FOREWORD

The project "Legislation Fostering Wind Energy Development in Ukraine" was initiated to assess the current regulatory framework governing the electricity and renewable energy markets in Ukraine, and wind energy in particular, and to draft a comprehensive legislative and regulatory roadmap necessary for adoption in the medium term to preserve and fully utilize the current potential of wind energy in Ukraine *(hereinafter referred to as the **"Project"**).*

The proposed legislative changes cover environmental, construction, land, and other aspects of the wind energy project development and implementation process, as well as issues related to grid connection. All goals, objectives, and outcomes of this Project are aligned with the current EU legislation, under which wind energy development in member states is considered a matter of "overriding public interest".

The proposed changes to the sector's regulatory framework and their practical implementation in the market are expected to contribute to:

1. **Simplifying the development of wind energy projects in Ukraine** and, accordingly, accelerating their implementation, which could become a significant advantage of the Ukrainian market compared to leading EU wind energy markets.
2. **Creating a transparent, competitive, and predictable environment in the Ukrainian wind energy market** in accordance with the EU market model.
3. **Achieving the state-level goals for the development of renewable energy sources** *(RES)*, specifically in terms of constructing 10 GW of new RES capacities by 2030, as outlined in the National Renewable Energy Action Plan until 2030; increasing the share of RES in gross final energy consumption to 27% by 2030, which corresponds to the National Energy and Climate Plan until 2030; achieving 10 GW of total installed wind energy capacity by 2032; and reaching 50% of RES in electricity generation by 2050, in line with the Energy Strategy of Ukraine until 2050.
4. **Protecting and attracting private investments into Ukraine's economy,** including covering part of the total USD 20 billion required to implement the National Renewable Energy Action Plan until 2030 and its associated measures, **and enhancing cooperation with international financial institutions.**
5. **Establishing a solid foundation for expanding the portfolio of new wind energy projects beyond 2030** and promoting new industries in the economy, particularly offshore wind energy, green metallurgy, and renewable hydrogen production.

6. **Modernizing the national power grid, increasing the capacity of cross-border interconnections, and optimizing the use of other energy and transport infrastructure.**
7. **Developing local communities and regional economies** by creating new jobs and improving local infrastructure.
8. **Raising public awareness about the use of RES** and fostering an environmentally-oriented culture in Ukrainian society.
9. **Positioning Ukraine on the international stage as a country aligned with the EU's energy agenda and committed to the global trend of the "green" energy transition and sustainable development goals,** amidst the large-scale war.
10. **Diversifying and stabilizing energy supply sources and enhancing Ukrainian energy independence** from imported fuels.

To properly accomplish the goals and objectives of the Project, as well as to conduct a correct analysis of the current industry legislation of Ukraine and to objectively identify gaps in it ***(Result I),*** the Project implementers were in constant interaction with the players of the wind energy market of Ukraine, representatives of industry authorities and international experts, as the main sources of information on the advantages and disadvantages of the wind energy market and ways to improve it. Considering this, the formulated changes to the current sectoral legislation ***(Result II)*** are representative, as they constitute the vast majority of the wind energy market in Ukraine.

The full analysis, its conclusions, and recommendations in the form of proposed changes to national legislation developed as a result of this Project will be submitted for consideration and inclusion in the work of the Office of the President of Ukraine, the Ministry of Energy of Ukraine, and the relevant Committees of the Verkhovna Rada of Ukraine.

This Report is prepared in English and is 121 pages long.

CONTENT

ACRONYMS AND DEFINITIONS

Auctions RES support mechanism introduced in 2019 in Ukraine to substitute "Green" Tariff

CMU Cabinet of Ministers of Ukraine, the highest body of state executive power in Ukraine

Developer Company established under the laws of Ukraine to construct and operate the RES power plant

DSO Distribution System Operator – an enterprise responsible for safe, reliable and efficient operation, maintenance and development of distribution system grids with voltage up to 110 *(150)* kV. Distribution system operators provide electricity distribution services

DPT Detailed plan of territory

ENTSO-E European Network of Transmission System Operators for Electricity

ESF Energy storage facility

ESS Energy storage system

EIA Environmental impact assessment

EPC Contract Engineering, Procurement, and Construction Contract

FIDIC International Federation of Consulting Engineers

FiP Contract on the provision of services to support the production of electricity from alternative energy sources under the market premium mechanism which could be signed with the Guaranteed Buyer

JAO Joint Allocation Office is a leading service provider for TSOs in the European electricity market; used to held auctions to allocate access to interconnector capacity between Ukraine and the EU countries according to European rules

IPS Integrated Power System *(of Ukraine)*

GCA Agreement signed by RES developers which outlines the procedures and requirements for RES connection to the power networks of the TSO or the DSO

"Green" Tariff Special tariff at which electricity generated at RES electricity facilities is purchased by the Guaranteed Buyer; This mechanism is effective until 2030

Guaranteed Buyer State enterprise obliged to buy electricity from RES producers who have a "Green" Tariff, as well as from RES producers – winners of the auction, at the auction price and perform other functions specified by law

NEURC National Energy and Utilities Regulatory Commission, a permanent central executive body with a special status formed by the Cabinet of Ministers of Ukraine and which regulates the energy sector of Ukraine

PPA Power Purchase Agreement, a long-term contract between an electricity generator and a customer

RES Renewable energy sources which include solar, wind, biomass, geothermal, hydrothermal energy, etc

SEA Strategic environmental assessment

SPP Solar *(PV)* power plant

TCs Technical conditions which include the technical specificities for connection of WPPs to electric power grid

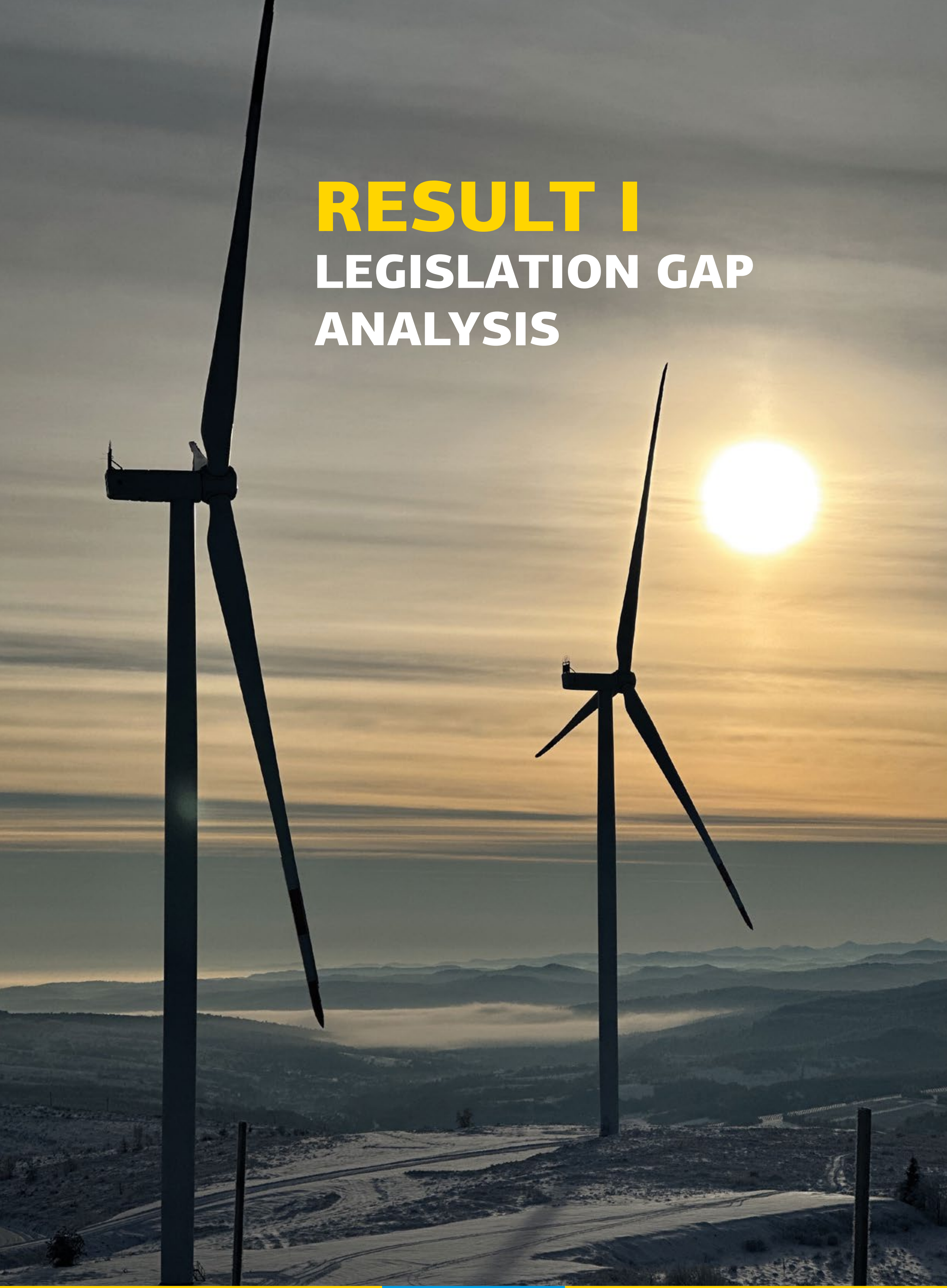
TSO Transmission System Operator – National Power Company Ukrenergo *(NPC Ukrenergo)* responsible for the transmission of electricity from producers to consumers through the transmission system grids with voltage from 110 *(150)* kV to 750 kV. In addition, the TSO carries out dispatching (operational and technological) management of the modes of operation of the Unified Power System of Ukraine and ensures the operational security of the system

UPAA Authorised urban planning and architecture authority issuing the UPCR

UPCR Urban planning conditions and restrictions on the development of a land plot

WPP Wind power plant

RESULT I
LEGISLATION GAP ANALYSIS



EXECUTIVE SUMMARY

This report is a key deliverable of the "Legislation Fostering Wind Energy Development in Ukraine" Project. It constitutes the Result 1 of the project and provides a comprehensive gap analysis and recommendations for developing the legislative framework for wind energy projects in Ukraine. Our analysis aligns with the national energy policy and government ambitions.

Key Points:

- The report assesses legislation as of 1 June 2024.
- While some issues highlighted in the offer sent to the Netherlands Enterprise Agency by the Dutch Ministry of Economic Affairs and Climate Policy *(dated 29 April 2024)* have been resolved and are documented in this report, our experts have also identified new issues.
- These additional issues will be described in the report and reflected in the Result 2 *(Legislative Initiatives)*.
- The analysis of the issue on "Extension of permits *(at least 5 years)*" is included within other issues.

We recognise the pivotal role of duly adopted legislative acts in shaping our analyses. To ensure relevance and accuracy, we engage in robust discussions with wind energy producers and state authorities.

No.	BARRIERS/RISKS	PROPOSAL
1.	**Allowing RES facilities to carry out construction without having a DPT *(detailed territory plan)* and other urban planning documentation**	
	The development of a DPT and other urban planning documentation is estimated to take at least six months, which has the potential to result in significant delays in construction.	The amendments to the Law on regulation of urban planning activity could be streamlined to clarify that wind projects do not require the preparation of a DPT for the period of martial law and 5 years from the date of its termination or cancellation.
2.	**Simplification of the EIA *(environmental impact assessment)* and the SEA *(strategic environmental assessment)* procedures for RES projects**	
	The Law on Alternative Energy Sources and the Ukrainian legislation on martial law do not contain any simplifications during martial law. Due to delays and technological changes *(e.g., increased turbine capacity and height)*, many Developers are required to repeat the EIA. It is therefore recommended that provisions be made to allow for flexibility and to avoid the need to repeat the EIA if changes do not increase hazardous waste, emissions or other pollutants. Although the Criteria cover such cases, Article 3 of the Law on EIA does not explicitly list changes in WPP parameters as exempt from repeated EIA during martial law if compliant with the Criteria as well as Part 8 of Article 9 of the Law on EIA does not specify exemptions for projects, e.g. changes in the wind projects, with no significant environmental impact based on specified Criteria. Also, the Law on EIA does not take into account the need for the extension of the EIA permit and its use for eligibility permits due to the martial law.	Part 1 of Article 3 of the Law on EIA should explicitly list changes in WPP parameters as activities exempt from re-conducting EIAs during martial law if they meet the Criteria. Likewise, amendments of Part 9 of Article 9 of the Law on EIA should clarify that repeated EIAs are unnecessary for projects with no significant environmental impact based on specified Criteria. Until the legal changes occur, we insist on seeking an official clarification from the relevant Ministry that re-conducting EIA for low-impact projects is not required. Given delays caused by the war in WPP projects and their uncertain completion timeline, it is reasonable to extend the validity of EIA conclusions and its use for eligibility permits. It is recommended to reflect this extension in Parts 9 and 10 of Article 9 of the Law on EIA on, especially during martial law and for five years after its termination, similar to the simplified land allocation process under the Law on Rapid Reconstruction.

3.	**Creation of preconditions for the use of standard international forms of contracts for the construction of alternative energy facilities, cancellation of outdated regulation of general contracting agreements**	
	Ukrainian legislation does not recognise the concept of the delay damages that are the only remedy available for the employer under the FIDIC EPC Contract.	To address this issue, an amendment to the Ukrainian Civil and Commercial Codes could explicitly allow contracting parties to agree upon delay damages related to non-monetary obligations. Such provisions would provide clarity and facilitate smoother contract negotiations.
4.	**Simplification of the procedure for obtaining permits for the transportation of energy equipment across several regions *(from the regional to the national level)***	
	Developers are lacking clarity concerning the terms for the provision of approvals required for obtaining of permits for the transportation of oversized cargos for WPP projects.	To enhance clarity and streamline the process, we recommend to amend the legislation to stipulate that approvals required for transporting oversized cargos in wind power projects are granted based on the "silent consent" principle. This would apply to owners of street and road networks, railway crossings, bridge management, urban electric transport services, power grid services, electrification services, and telecommunications services. By implementing this principle, smoother operations and compliance will be facilitated.
5.	**Creating an opportunity to obtain aviation approvals without reference to urban planning documentation / Changes to the rules for approving the height of wind turbines and the placement of wind turbines in the radar zone**	
	During the procedure for determining the maximum height and planning restrictions for the development of land plots on the aerodrome environs in the UPCR through the Electronic System, the Developers experience delays and ambiguity in the procedure of obtaining Aviation Approval within the UPCR caused by technical difficulties with the Electronic System *(in case of multiple land plots)* and the gaps in the regulation of obtaining Aviation Approval for the construction of WPP within the Reasoned Conclusion without the development of urban planning documentation.	The technical issue has been resolved, eliminating the need for further regulatory action. We propose to amend paragraph 40 of Clause 9^3 of section V of the Law on Urban Planning to specify that a Reasoned Conclusion for an object with a height exceeding 45 meters within the aerodrome *(heliport)* territory shall be issued, according to Procedure 1427 *(i.e. by contacting the State Aviation Service of Ukraine and/or the Ministry of Defence through the Electronic System).*
6.	**Detecting outdated and inefficient regulations applicable to the construction process**	
	Ukrainian companies with foreign shareholders face unreasonable obstacles when acquiring non-agricultural land, which is negatively impacting WPPs development.	To address the issue, we suggest amending Article 82 of the Land Code. Such provisions would allow companies registered under Ukrainian laws but owned by foreign shareholders to acquire non-agricultural land. This adjustment could facilitate smoother land acquisition processes and encourage investment.

7.	Land and construction issues *(easement issues, land planning issues)*	
	Due to uncertainties in Ukrainian legislation, the WPP Developers face difficulties in obtaining easements necessary for the construction and maintenance of energy facilities. In particular, the ambiguity. The ambiguity surrounding legislation related to the construction of access ways within WPPs has resulted in varying interpretations and positions in practice. Specifically, easements may be denied based on whether these access ways are considered part of the energy facility and linear energy infrastructure more broadly. Additionally, practical challenges arise during the process of granting easements for access way construction. Improved regulation of lease issues and mandatory lease payments has led state and municipal land managers to be less inclined toward granting easements. Unfortunately, this stance does not always align with the actual intentions of parties who seek in particular to use these access ways as public roads, including for local residents. Furthermore, the subject matter of easement agreements remains ambiguous. The classification of public authorities and local self-government bodies as "land plot owners" is complex, as they primarily function as land managers on behalf of the community or the state.	We propose to amend the legislation as follows: • to specify that land plots of all ownership types can be used for constructing, placing, and operating wind electrical facilities *(wind turbines)* and foundations under them, energy storage facilities, and access ways to or within energy facilities. This can be achieved through permanent or fixed-term land easements without changing the land's designated purpose; • to clarify that companies that construct or operate energy facilities and electricity transmission facilities have the right to enter into an agreement on land easement with the owner *(manager)* or user of a land plot; • to provide that the payment for land when establishing a land easement for state and municipal land plots shall not exceed the maximum amount of rent for state or municipal land established by law; • to introduce the principle of tacit consent. If no respective permit or reasoned refusal is issued within 45 days after applying for a permit to develop technical land management documentation, the documentation can be developed without the permit; • to specify the possibility of compulsory alienation of privately owned land plots when an agreement on easement establishment cannot be reached.
	When forming land plots, it is essential to define them as objects of civil rights. This process involves determining their area, boundaries, and recording this information in the State Land Cadastre. A land plot is officially considered formed once it receives a cadastral number. However, meeting this requirement can be challenging for water fund lands, especially those located on the seabed. The dual-use regime distinguishes between water fund land and water mirror, raising questions about the administrator's responsibility for water fund lands *(particularly for seabed areas)*.	We also propose: • to address gaps related to registration of title to the water fund lands; • to improve procedure for approving land management and urban planning documentation for water fund lands.
8.	Extension of the validity period of permits, in particular, technical conditions for connection to power grids	
	3-year validity period of the TCs *(annex to the GCA)* causes ambiguity and lack of transparency for WPP Developers by: • non-transparent procedure for extension of the GCA and TCs; • limited availability of contractual instruments/ provisions to extend GCA/TCs *(e.g. force majeure clause)*; • significant risks of termination of the GCA based on expiration of the TCs; • financial risks associated with potential impossibility to compensate grid connection fee subject to expiration of the GCA/TCs; • increased compliance and corruption risks due to potential malpractice by the grid operators.	In order to eliminate these barriers, we suggest extending the validity period of the TCs for the WPP/SPP upon approval of the engineering project design documentation for the period reasonably required for the construction of the relevant internal and external power facilities. The relevant provisions shall include contractual terms for the force majeure consequences including the extension of the grid connection for the period when performance of the relevant GCA was not available due to the force majeure event. We recommend introducing a minimum grid connection fee. This fee would be paid in advance per megawatt *(MW)* of connected capacity. The fee would apply once the GCA is executed with the TSO for connecting the renewable energy system to the grid.

9.	**Issuance and accounting of technical conditions based on "connected" rather than installed capacity/Introduction of "hybrid" and "limited" technical conditions, creation of the possibility to connect to existing generating capacities**	
	The TSO and the DSOs typically do not allow an increase in installed capacity beyond what was initially ordered during grid connection. Investors may prefer higher installed capacities to maximise the use of the connection. Having separate connections for each facility can lead to increased costs for customers. These costs include higher depreciation charges, transmission fees, and distribution fees. Separate connections can also cause delays in commissioning. This delay is problematic, especially considering Ukraine's urgent energy needs. Producers with ESS at licensed production sites must exclusively take electricity for the ESS from their own generating facilities. The total capacity of electricity supplied from the producer's networks to the Ukrainian energy system cannot exceed the installed capacity of the generating equipment. Apparently, these restrictions apply only if the producer does not have a separate storage license. The Transmission System Code and the Distribution System Code restrict producers from taking electricity from the grid for the ESS, regardless of whether the producer has an ESS operator's license. If an electricity producer wants to use grid electricity to charge the ESS, they must disconnect it from the generating facility and create a separate grid connection, which increases costs and may not optimise the connection of the generating facilities.	We suggest allowing installed capacity to exceed ordered capacity, considering existing permitted capacity. Also, the grid users should choose electrical equipment based on energy resource, activity type, and installed capacity, as long as it does not exceed the ordered capacity. Compliance with commercial accounting and management tools is required. Also, the Licensing Conditions should reflect the principle of having ordered capacity lower than installed equipment capacity. We propose introduction that the restriction to take electricity for the ESS from the grid applies only to producers who do not possess an ESS operator's license. In other words, if a producer has the necessary ESS operator's license, they are not subject to this restriction. Also, the licensed producers *(those with an ESS operator's license)* should not be limited to taking electricity solely from their own generating facilities. Instead, they should be allowed to source electricity from any available source. However, there should be a condition: the total capacity supplied from the producer's networks to the Ukrainian energy system must not exceed the ordered capacity *(maximum estimated or forecasted capacity)*, considering the existing permitted *(connected)* capacity.
10.	**Introducing the possibility of booking technical conditions under the customer's financial guarantee**	
	The requirements for confirmation of the land title prior to execution of the GCA, create significant challenges such as: • allocation of the land plot and registration of the land rights requires significant costs for acquiring the relevant right; and • the development procedures required to take investment decisions *(such as environmental assessment, wind measurements etc.)* could take more than one year to be finalised.	It is proposed to grant the WPP Developers the right to enter into a Capacity Booking Agreement with the TSO and/or the DSO. The agreement should address significant conditions related to the TSO/DSO, and there are two options: either direct approval by the NEURC or the adoption of a model Capacity Booking Agreement. According to the Capacity Booking Agreement the customer shall pay a guarantee fee to the TSO/DSO in the amount sufficient to ensure reasonable barriers for blocking capacity by the "paper" projects and, while not creating an undue burden on bona fide Developers.

11.	**Changing the methodology for calculating power system operating modes for the purpose of issuing technical conditions**	
	In the development stage of RES projects, investors face the challenge of assessing business and operational risks related to connecting RES facilities to power grids. This assessment includes evaluating the feasibility of generating RES capacity at the proposed location and estimating the costs of grid connection. However, existing regulatory and technical documents, introduced in 2014, do not account for several crucial factors: • The rapid growth of the alternative energy sector from 2019 to 2021 and its impact on the overall energy system balance. • Integration of the Ukrainian power system into the ENTSO-E. • Lack of provisions for the ESS. • Options for connecting hybrid power plants and the ESS to the grid. • Standardised initial data requirements for feasibility studies and their validity period. • International best practices for modeling new RES facilities, considering existing RES capacities and territorial influences. • The need for flexibility in ensuring the N-1 criterion when connecting RES facilities.	The existing regulatory and technical documents for assessing the future development of Ukraine's IPS need upgrading and greater flexibility. To address this, a specialised regulatory and technical document is proposed. This document would regulate the methodology for assessing the power grid's state when connecting RES and cover the following aspects: • Define composition, content, and timelines for providing input data. • Consider international experience when analysing power grids. • Specify the procedure and terms for system operator approval of basic schemes. • Allow flexibility in meeting the N-1 criterion for RES connections. • Define requirements for connecting different generation types *(WPP, SPP, ESS)* based on facility technology. • Incorporate feasibility study conclusions into technical specifications for RES connections. For successful implementation, legislation and regulations must guarantee investors the ability to connect RES facilities according to the agreed scheme outlined in the feasibility study.
12.	**Introduction of direct connection to consumers** ***(with exemption from payment of distribution and transmission tariffs)***	
	Consumers' facilities connected via the "direct line" cannot be electrically linked to the DSO/TSO grids. Power facilities situated on land plots distant from consumers' facilities *(non-adjacent land plots)* cannot operate under the "active consumer" mechanism as defined in Article 58[1] of the Law on Electricity Market.	We propose to eliminate the described requirement, allowing electric facilities connected directly to the grid to remain operational without mandatory disconnection. Also, consumers should be allowed to connect power generation facilities *(such as solar panels or wind turbines)* located on their land plots under certain conditions: • The installed capacity of these generating facilities must not exceed the permitted *(contractual)* capacity of the consumer's electrical facilities. • The entire volume of electricity produced by these generating facilities must be consumed by the relevant consumer.

13.	**Reforming the mechanism of contracts for difference and FiP (without the participation of the Guaranteed Buyer)**	
	Despite the formal existence of the support scheme outlined, it appears to be insufficient to ensure the bankability of renewable energy projects, which are subject to: • lack of approved renewable energy support offers to conduct auctions; • financial shortfall of the guaranteed purchaser due to regulatory loopholes; • malpractice by the TSO in failing to accept the Guaranteed Buyer's service and negligence in collecting debts from consumers; • negligence by the NEURC in relation to politically influenced tariff setting; • risks related to the qualification of the given support scheme as inappropriate state aid.	The amendments should introduce as follows: • to require mandatory participation of renewable energy producers in technologically neutral auctions for new power generation facilities; • to align the existing renewable energy support scheme with the proposed mechanism of direct contractual relationships between renewable energy producers and the TSO; • to eliminate the Guaranteed Buyer as an intermediary in settlements between renewable energy producers and the TSO, facilitating direct contractual relationships; • to establish direct contractual relationships between renewable energy producers and the TSO; • to introduce other related changes.
14.	**Distribution of cross-border crossings for RES**	
	Corporate PPAs with electricity export in Ukraine face challenges due to current regulations on cross-border capacity access. These regulations allocate capacity on short-term *(intraday)*, medium-term *(monthly)*, or long-term *(yearly)* bases. This makes it unlikely for physical and sleeved corporate PPAs to work. Securing long-term electricity supply becomes difficult. While parties can enter long-term corporate PPAs, sellers may struggle to access cross-border capacity due to tender failures for the next year.	Legislative changes to address this are not possible since Ukrainian rules align with Energy Community regulations.

CATEGORY 1: PERMITTING ACTIVITIES AND CONSTRUCTION

1. ALLOWING RES FACILITIES TO CARRY OUT CONSTRUCTION WITHOUT HAVING A DPT *(DETAILED TERRITORY PLAN)* AND OTHER URBAN PLANNING DOCUMENTATION

Issue: The development of a DPT and other urban development documentation takes at least 6 months resulting in significant construction delays.

Applied legislation

- Law of Ukraine "On Regulation of Urban Planning Activity" dated 17 February 2011 No. 3038-VI *(Law on Urban Planning)*
- CMU Resolution "On Approval Procedure for Performing the Expertise of The Urban – Planning Documentation" dated 25 May 2011 No. 548 *(Resolution on Expertise of the Urban – Planning Documentation)*

Application of the relevant legislation to the issue

According to Article 19 of the Law on Urban Planning a DPT is developed to determine the planning organization and functional purpose, spatial composition, and parameters of development as well as landscape organization of a district, sub-district, or other part of the locality, designated for complex development or reconstruction, and is subject to strategic environmental assessment.

Generally, this Law on Urban Planning regulates land issues in urban planning and creates an urban planning cadastre for settlements. The Law on Urban Planning also sets out the liability for violations of urban planning legislation. According to the Law on Urban Planning, urban planning is an activity of state bodies, local self-government bodies, enterprises, institutions, organizations, citizens and unions of citizens related to the creation and maintenance of a complete living environment.

The urban planning activities include:

- forecasting the development of settlements and territories;
- planning, construction and other use of territories;
- designing and building of urban objects;
- construction of other objects;
- reconstruction of historical settlements together with the preservation of the traditional character of the environment;
- restoration and renewal of objects of cultural heritage; and
- creation of engineering and transport infrastructure.

There are three levels of the urban planning documentation:

- national (the general scheme for territory planning and planning schemes for parts of the country);
- regional *(the territory planning scheme of the Autonomous Republic of Crimea, oblasts and rayons);* and
- local *(general city plans, zoning plans, and detailed plans).*

The procedure for urban planning documentation was approved by the Resolution on Expertise of the Urban – Planning Documentation on 25 May 2011 *(amended by the Resolution of the CMU dated 27 February 2012 No. 148).* General urban plans are approved only after public hearings. The time allotted cannot exceed 60 calendar days for urban planning documentation at national and urban levels and 45 days for general city plans.

In the case of existing the general urban plans the need to prepare the DPT is rather questionable, as all the restrictions are indicated in the DPT.

Conclusions and recommendations

It is recommended to amend the provisions of the Law on Urban Planning that do not require the DPT to be prepared for the WPPs for the period of martial law and 5 years from the date of its termination or cancellation. The simplification of the procedure will provide an opportunity to speed up the construction process of the WPPs.

2. SIMPLIFICATION OF THE ENVIRONMENTAL IMPACT ASSESSMENT AND THE STRATEGIC ENVIRONMENTAL ASSESSMENT PROCEDURES FOR RENEWABLE ENERGY PROJECTS

Issue: The WPP Developers face unreasonably complex Environmental Impact Assessment *(EIA)* and Strategic Environmental Assessment *(SEA)* procedures.

Applied legislation

- Law of Ukraine "On Environmental Impact Assessment" dated 23 May 2017 No 2059-VIII *(Law on EIA)*
- CMU Resolution "On Approval of Criteria for Determining Planned Activities That Are Not Subject to Environmental Impact Assessment And Criteria for Determining Expansions And Changes In Activities And Facilities That Are Not Subject to Environmental

Impact Assessment" dated 13 December 2017 No. 1010 *(Criteria)*
- Law of Ukraine "On Strategic Environmental Assessment" dated 20 March 2018 No. 2354-VIII
- Order of the Ministry of Environmental Protection and Natural Resources of Ukraine "On Approval of the General Methodological Recommendations on the Content and Procedure for Preparing Environmental Impact Assessment Reports" dated 15 March 2021 No. 193

Application of the relevant legislation to the issue

- WPPs and the EIA requirements
  According to Part 3 of Article 3 of the Law on EIA, the WPPs with two or more turbines or with a height exceeding 50 meters are subject to an EIA. This also applies to expansion, change, or updating of the conditions for carrying out the planned activity, including reconstruction, technical re-equipment, overhaul, and re-profiling of activities and facilities specified in paragraphs 1-13 of Part 3 of Article 3 of the Law on EIA, unless they have no significant environmental impact as per the Criteria approved by the CMU.
- Exemptions from the EIA
  Part 1 of Article 3 of the Law on EIA states that activities not explicitly mentioned in Parts 2 and 3, as well as activities exclusively aimed at state defense, emergency response, restoration after armed aggression during the martial law, and the designation change of especially valuable lands, among others, are not subject to the EIA, provided that they meet the Criteria approved by the CMU.
- Expiration and renewal of the EIA conclusion
  Part 9 of Article 9 of the Law on EIA stipulates that the EIA conclusion expires after five years if no decision has been taken to proceed with the planned activity. A new EIA must be caried out if the project documentation changes or if changes in legislation require new environmental conditions.
- Use of the EIA conclusion for the other permits
  Part 10 of Article 9 allows the EIA conclusion and its results to be used for obtaining other permits within five years of the decision to carry out the planned activity, provided that no changes are introduced to the activity or its implementation conditions.
- Criteria for exemptions from the EIA
  Paragraph 6 of Part 2 of the Criteria for identifying expansions and changes in operations and facilities not subject to the EIA stipulates that expansions of economic activities or facilities that have already undergone an EIA and have already obtained a conclusion are not subject to a new EIA if they do not lead to increased hazardous waste, new types of hazardous waste, new emissions, or other environmental pollutants.
- Re-conducting the EIA
  At present, the need to re-conduct the EIA in the event of changes to a project that do not result in additional negative environmental impact compared to the original project is not thoroughly defined by law. Therefore, in the process of conducting their business activities, legal entities may violate the current legislation of Ukraine without being aware of it, resulting in their legal liability.

Conclusions and recommendations

EIAs for WPPs are essential to comply with environmental regulations, to consider local community positions, and to ensure process transparency.

The following changes should be made:

- Extension of the EIA conclusion validity and its use for other permits
  Given the war-induced delays in WPP projects and the uncertain timeline for their completion, it is reasonable to extend the validity of the EIA conclusion and the ability to obtain permits based on it. This should be reflected in Parts 9 and 10 of Article 9 of the Law on EIA during the period of martial law and for five years after its termination, similar to the simplified procedure for the land allocation process under the Law of Ukraine "On Amendments to Certain Legislative Acts Of Ukraine On Simplifying The Procedure For Changing The Purpose Of Land Plots To Attract Investment For The Rapid Reconstruction Of Ukraine" dated 6 February 2024 No. 3563-IX.
- Amendments on enlisting changes in WPP parameters as activities exempt from reconducting EIAs
  Part 1 of Article 3 of the Law on EIA should explicitly list changes in WPP parameters as activities exempt from reconducting EIAs during martial law if they meet the Criteria. Due to war-related delays and technological changes *(e.g., increased turbine capacity and height)*, many Developers need to reconduct the EIA. Therefore, provisions should allow for flexibility and avoid repeating the EIA if changes do not increase hazardous waste, emissions, or other pollutants. Although the Criteria cover such cases, Part 1 of Article 3 of the Law on EIA does not explicitly list changes in WPP parameters as exempt from repeated EIA during martial law if they comply with the Criteria.
- Amendments on requirements for the EIA reconducting
  Part 9 of Article 9 of the Law on EIA should provide that the requirement for the EIA reconducting does not apply to changes that do not have a significant impact on the environment in accordance with the Criteria. Until the changes are made to the law, it would be appropriate to provide an official clarification from the relevant Ministry that there is no need to undergo the EIA once again if the changes made to the project do not cause additional negative environmental impacts compared to the original project.

3. CREATION OF PRECONDITIONS FOR THE USE OF STANDARD INTERNATIONAL FORMS OF CONTRACTS FOR THE CONSTRUCTION OF ALTERNATIVE ENERGY FACILITIES, CANCELLATION OF OUTDATED REGULATION OF GENERAL CONTRACTING AGREEMENTS

Issue: Ukrainian legislation does not recognise the concept of delayed damages.

The FIDIC model contracts provide for mechanisms for dealing with and defining the amount of compensation payable by the contractor to the employer in the event that the works or a stage thereof are not completed within the time for completion. The amount of the delay damages is pre-determined and specified in the EPC Contract for each day of delay in completing the works/section within the relevant time for completion, and the maximum amount of such delay damages is usually also agreed upon by the parties.

Delay damages are designated to compensate the employer for the loss or damage that it is likely to suffer as a result of the delay, without the employer having to prove and substantiate that it has suffered any loss or damage without it having to prove and substantiate the amount of its actual loss or damage.

Ukrainian legislation does not recognise the concept of delayed damages which is the only remedy available for the employer under a FIDIC EPC Contract. Subsequently, employers under a FIDIC EPC Contract governed by the laws of Ukraine face the risk of the unenforceability of delay damages for the contractor's delay.

Applied legislation

- Civil Code of Ukraine dated 16 January 2003 No. 435-IV *(Civil Code)*
- Commercial Code of Ukraine dated 16 January 2003 No. 436-IV *(Commercial Code)*

The main legislative documents regulating compensation for breach of contract in Ukraine are the Civil Code and the Commercial Code. Both these documents consist of a general part *(containing general rules applicable to all situations that may occur within the scope of particular social relations) and a special part (containing rules applicable to particular social relations, i.e. a construction contract).*

According to Article 22 of the Civil Code, the damages include:

- losses suffered by a person as a result of the destruction of or damage to property, as well as expenses incurred or to be incurred by the person to restore the violated right *(actual damages);* and
- income that a person could realistically have obtained under normal circumstances if their right had not been violated *(lost profit).*

According to Article 623 of the Civil Code, the creditor *(claimant)* is obliged to prove the amount of damage caused by the breach of obligation. When determining the lost profits, the measures taken by the creditor to obtain them should be taken into account.

Chapter 61 of the Civil Code applicable to construction contracts, contains specific provisions defining the cases in which either the employer or the contractor may be liable for damages caused by the breach of contractual obligations.

According to Article 225 of the Commercial Code, the damages include:

- value of the property lost, damaged, or destroyed property determined in accordance with the requirements of the legislation;
- additional expenses *(penalty sanctions paid to other entities, costs of additional work, additional materials used, etc.)* incurred by the party that has suffered damage as a result of the other party's breach of obligation;
- lost profit *(lost benefit)* that the party suffering damages was entitled to expect in case of proper performance of the obligation by the other party; and
- material compensation for moral harm in cases provided for by law.

Pursuant to Articles 614 and 623 of the Civil Code and Article 226 of the Commercial Code, the defendant may be held liable for damages if all the elements of the offence are present, namely:

- the defendant's breach of duties towards the plaintiff;
- the existence of damage caused by the defendant, including the plaintiff's loss of profit;
- the causal link between the defendant's acts *(or omissions)* and the negative consequences resulting from such acts (or omissions); and
- the defendant's fault in causing the negative consequences, which may take any form, such as gross or ordinary negligence *(the fault is presumed and need not be proved by the claimant).*

According to Part 4 of Article 623 of the Civil Code, the measures taken by the creditor to obtain the lost profit must be taken into account when determining lost profits.

Application of the relevant legislation to the issue

In WPP projects, damages caused by the contractor's delay are usually calculated based on the employer's forecast of the receivables that the project should generate after the commercial commissioning date. Therefore, delay damages under FIDIC EPC Contracts are considered lost profits.

In accordance with the above-mentioned provisions of the Commercial Code and the Civil Code, the contractor is liable for damages *(lost profit)* under a

FIDIC EPC Contract if a complete set of elements of the offence is present, namely:

- the contractor's breach of obligations to the employer that should be proved by the employer;
- the existence of damages caused by the contractor, including the employer's loss of profit, the amount of which should be proved and substantiated by the employer; additionally, Part 4 of Article 623 of the Civil Code obliges the employer to provide evidence of specific measures taken to ensure the receipt of income *(conclusion of relevant contracts, preparation of production equipment, etc.).* This provision indicates to the employer that he must prove facts confirming that he did everything possible to obtain the claimed lost profit, that he had every opportunity to do so, and that he would definitely have received such income if the contract had been properly performed. When determining the amount of lost profits, only accurate data should be taken into account that indisputably and reliably confirms the existence of a real possibility of receiving monetary sums, except for the employer's delay. Based on the above-described legal provisions, the employer's claim for loss of profit must be based on a reasoned calculation and appropriate evidence.
- the causal link between the contractor's acts *(or omissions)* and the negative consequences resulting from such acts *(or omissions);*
- the contractor's fault in causing the adverse consequences, which may take any form, including gross or ordinary negligence *(the fault is presumed and need not be proved by the employer).*

One may object and state that although the Ukrainian legislation does not recognise the concept of delay damages, the contracting parties may agree on the delay penalty *(forfeit),* which is well-known and widely applied in Ukrainian contract law. Particularly the parties may agree that the contractor would pay a fixed amount (monetary amount per each day of the delay), or an amount calculated as a percentage of the contract price per each day of the delay.

In our opinion, this approach may not work as intended for the following reasons. Firstly, the FIDIC EPC Contracts have been developed in such a way as to allow the parties to amend certain contractual provisions in a special part of the contract called "Special Provisions – Part B" of the Particular Conditions. And this sub-clause in "Special Provisions – Part B" is still called "Delay Damages". In other words, the FIDIC EPC does not allow the parties to substitute the delay damages with any other term that could work in a particular jurisdiction, so the parties that agree to substitute the delay damages in the FIDIC EPC with, for example, a delayed penalty is technically deviating from the standard contractual form.

Secondly, the Ukrainian Commercial Code contains Article 233 allowing the court to reduce the amount of delay penalties claimed by the employer if the penalties to be paid are excessive in comparison with the creditor's *(employer's)* losses. Deciding whether there are grounds for the reduction of the claimed delay damages, the court *(according to Article 233 of the Commercial Code)* must also consider the following: the degree to which the debtor (contractor) has fulfilled its obligation; the financial situation of the parties to the obligation; and not only the financial, but also the other interests of the parties that deserve to be taken into account. We note that the aforementioned Article 233 implies a wide discretion of the court considering the respective claim. Consequently, if the delay damages are substituted with the delay penalty, the employer may find himself in a situation where he has to prove his losses caused by the delay, which is a significant difference compared to the delay damages concept. As a result, the employer applying the delay penalty will always run the risk of an uncontrolled and unpredictable reduction of the claimed compensation for the contractor's delay.

It is worth mentioning that under Ukrainian legislation the damages may also be reduced by the court in accordance with Article 616 of the Civil Code of Ukraine, but such reduction is possible only if the creditor, intentionally or negligently, contributed to the increase in the amount of damages caused by the breach of the obligation or failed to reduce the amount of damages. This legal provision obliges the defendant *(the contractor)* to provide evidence of the plaintiff's *(the employer's)* fault in causing the damage, and if the defendant fails to provide sufficient evidence, there will be no grounds for the reduction of the claimed damages.

In such circumstances, the concept of delay damages applied in the FIDIC EPCs provides the employer with more comfort when it comes to charging the contractor for the delays under the EPCs.

Conclusions and recommendations

In view of the above-mentioned regulatory framework, the mechanism of delay damages in case of the contractor's delay under the FIDIC EPC Contract is unenforceable if such contract is governed by the laws of Ukraine. The reason for the unenforceability is that the employer, in the event of a court claim for delay damages, would have to prove the amount of the claimed delay damages and that the employer would receive respective profits if only the contractor had not delayed. In such circumstances, the employer under the FIDIC EPC Contract cannot rely on any mechanism provided by the contract to remedy the contractor's delay.

This issue could be solved by amending the relevant provisions of the Civil Code and the Commercial Code by proposing provisions that would clearly state that the contracting parties may agree on delay damages for delay in the performance of non-monetary obligations.

4. SIMPLIFICATION OF THE PROCEDURE FOR OBTAINING PERMITS FOR THE TRANSPORTATION OF ENERGY EQUIPMENT ACROSS SEVERAL REGIONS

Issue: the timing for issuance of approvals required for obtaining transportation permits is not determined.

A significant number of cargos to be delivered by public roads in Ukraine for the development and equipment of WPPs do not meet the standard dimensions for cargos allowed on Ukrainian public roads. The dimensions of goods transported on public roads in Ukraine must meet strict standards and norms set by the Resolution on Traffic Rules. The oversized cargo may be transported in specially prepared vehicles whose dimensions should not exceed 2 m 60 cm in width, 18,75 m in length, and 4 m in height, measured from the road surface. Should any of the parameters be exceeded by the transport or the cargo mounted on it, the respective transport is allowed to be transported on the road only with a special permit establishing the conditions and regimes of the transportation of cargo and fare for its transportation.

The legislation is clear about the authorities issuing the permit and the conditions for issuing it. However, it requires that the carrier applying for the permit must supplement the application with documents of approval from the owners of the street and road network, railway crossings, bridge management, urban electric transport services, power grid services, electrification services, and telecommunications services relating to the passage of the vehicle. Such authorising authorities are not required to comply with any procedures or conditions and issue authorizations in the manner determined by themselves, consequently, applicants *(carriers)* may not be able to estimate the time required to obtain such authorisation.

Applied legislation

- Law of Ukraine “On Automobile Transport” dated 5 April 2001 No. 2344-III *(Law on Automobile Transport)*
- CMU Resolution “On the fare of oversized and heavy vehicles on roads, streets and railway crossings” dated 18 January 2001 No. 30 *(Rules for fare of oversized and overloaded transports)*
- CMU Resolution “On Traffic Rules of Ukraine” dated 10 October 2001 No. 1306 *(Resolution on Traffic Rules)*

The Law on Automobile Transport sets a general requirement to obtain the permit for a fare of oversized transportation of cargo. The procedure is specified by the resolutions of the CMU.

The rules for fare of oversized and overloaded transports on automobile roads, streets, and level crossings approved by the Rules for fare of oversized and overloaded transports set the procedure for application and issuance of the permit for fare of oversized transport.

Application of the relevant legislation to the issue

In accordance with the Rules for a fare of oversized and overloaded transports, the Law of Ukraine “On Permit System in the Sphere of Economic Activity” dated 6 September 2005 No. 2806-IV the permit is issued *(denied, processed, re-issued, canceled)* by administrative service centres or, if technically possible, directly through the Unified State Web Portal of Electronic Services, including through information systems of state authorities and local governments integrated with it.

APPROVING ENTITY	WHEN THE APPROVAL IS REQUIRED
The State Agency for Restoration and Infrastructure Development	The route for oversized and heavy vehicles *(hereinafter referred to as the “route”)* is on interregional public roads.
State enterprise under the management of the State Agency for Restoration and Infrastructure Development operating in the respective region	The route is located within the borders of a single region or the Autonomous Republic of Crimea.
The owners of the roads, streets, and railway crossings, or their authorised organisations by them that are responsible for the operational maintenance of these roads, streets, and railway crossings.	If the route passes through the streets of populated areas, the issuance of the permit is coordinated with them.
Providers of urban electric transport services, power grid services, electrification services, telecommunications services, and bridge management services operating respective objects	The height of the oversized vehicle with or without cargo exceeds 4.5 metres from the road surface
The railway track section *(state-owned)* or the owners of the crossings *(other forms of ownership)* or the organisations authorised by them.	If the dimensions of the oversized vehicle exceed 5 metres in width, 26 metres in length, 4.5 metres in height, or if the total weight of the heavy vehicle exceeds 52 tonnes.

A permit is issued by:

- the authorised unit of the National Police – in the case of leaving Ukraine or entering the territory of Ukraine exclusively by oversized vehicles;
- the authorised units of the National Police in the regions, the city of Kyiv, as well as the Autonomous Republic of Crimea and the city of Sevastopol – if the route lies within the Autonomous Republic of Crimea, the region, between regions, or between the Autonomous Republic of Crimea, the cities of Kyiv and Sevastopol, and other administrative territorial units.

The issuing authority must decide within three days whether to issue the permit or reject the application, but the issuance of the permit may be subject to approvals that should be obtained from various institutions depending on the particularities of the designated route.

In order to obtain a permit, the carrier must submit an application specifying the make, model, licence plate number, planned travel dates and number of trips, route, geometric parameters *(height, width, length)* and weight parameters *(total weight, axle loads)* of the vehicles, information about the cargo, the name, address, and phone number of the carrier, and the name and surname of the person responsible for the transport. The application should be supplemented with copies of approval documents from the owners of the street and road network, railway crossings, bridge management, urban electric transport services, power grid services, electrification services, and telecommunications services for the passage of the vehicle. The legislation does not set any deadlines for the provision of such approvals and applicants *(carriers)* may find themselves in a situation where the issuing authority delays the approval without any sufficient reason.

Conclusions and recommendations

To the extent that there is no fixed time limit for the granting of approvals and approvals are granted by different institutions, such a regime creates additional administrative burdens for carriers seeking such approvals. In this regard, we believe that it would be much preferable for carriers, and subsequently for Developers, if such approvals were issued based on the "silent consent" principle, according to which the carrier applies for the approval and if there is no response within a certain period of time *(i.e. 10 calendar days),* the approval is presumed, and the carrier may apply for the approval.

5. CREATING AN OPPORTUNITY TO OBTAIN AVIATION APPROVALS WITHOUT REFERENCE TO URBAN PLANNING DOCUMENTATION; CHANGES TO THE RULES FOR APPROVING THE HEIGHT OF WIND TURBINES AND THE PLACEMENT OF WIND TURBINES IN THE RADAR ZONE

Issue: The procedure for obtaining Aviation Approvals as a part of the UPCR through the Electronic System can be complicated due to technical issues, and may be impossible due to shortcomings in the regulatory framework.

Applied legislation

- Air Code of Ukraine dated 19 May 2011 No. 3393-VI *(Air Code)*
- Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Improving the Procedure for Providing Administrative Services in Construction and the Creating the Unified State Electronic System in the Construction Sector" dated 17 October 2019 No. 199-IX *(Law 199-IX)*
- Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine for the Purpose of Attracting Investments for the Rapid Reconstruction of Ukraine" dated 6 February 2024 No. 3563-IX *(Law on Rapid Reconstruction)*
- Law of Ukraine "On Regulation of Urban Planning Activity" dated 17 February 2011 No. 3038-VI *(Law on Urban Planning)*
- CMU Resolution "On Approval of the Regulation on the Use of the Airspace of Ukraine" dated 6 December 2017 No. 954 *(Resolution 954)*
- Procedure for Approval of the Location and Height of Objects in Aerodrome Environs and Objects the Operation of Which May Affect Flight Safety and Operation of Civil Aviation Radio Equipment approved by the Order of the Ministry of Infrastructure of Ukraine dated 30 November 2012 No. 721 *(Procedure 721)*
- Temporary Procedure for Approval of the Location and Height of Objects in the Aerodrome Environs and Objects which Operation May Affect the Flight Safety of State Aircraft and the Operation of Communication, Navigation and Surveillance Equipment *(Radio Equipment),* approved by the Order of the Head of the State Aviation Regulatory Administration of Ukraine dated 1 July 2019 No. 26 *(Order 26)*
- Procedure for Determining the Maximum Height and Planning Restrictions for the Development of Land Plots in the Aerodrome Environs in Urban Planning Conditions and Restrictions and Informational Interaction for this Purpose approved by the CMU Resolution "Issues related to the use of the aerodrome environs" dated 23 December 2021 No. 1427 *(Procedure 1427)*

- The classifier NK 018:2023, approved by the Order of the Ministry of Economy of Ukraine dated 16 May 2023 No. 3573 *(Classifier NK 018:2023)*

The previous legislation provided that an application for an Aviation Approval should be submitted directly to the competent authorities.

Clause 56 of the Resolution 954 before it was amended on 5 January 2022, provided for the approval of the location and height of objects, the operation of which may affect flight safety and the operation of civil aviation radio equipment *("Aviation Approval")* by the head of the aerodrome operator, the State Aviation Service of Ukraine or the Ministry of Defence *(in accordance with the competence).* The applicant had to apply directly to the aforementioned authorities in accordance with paragraphs 2.1 – 3.6 of the Procedure 721, and the Order 26.

Amendments to the legislation to simplify the procedure for obtaining Aviation Approval.

Clause 9 of Section II of the Law 199-IX which entered into force on 1 December 2019, amended the Resolution 954. Procedure 721 and Order 26 became invalid upon the enactment of the Law 199-IX. According to the amendments introduced by the Law 199-IX, the conditions for development *(construction)* and land use in the aerodrome environs "shall be determined during the territory planning through the development and approval of urban planning documentation subject to restrictions on the use of the aerodrome environs".

Prior to the approval of urban planning documentation, taking into account the restrictions on the use of the aerodrome environs, planning restrictions on the use of aerodrome environs shall be established in the urban planning conditions and restrictions on the development of a land plot *(UPCR)* in accordance with clause 9 of the Final and Transitional Provisions of the Law 199-IX.

The authorised urban planning and architectural authority *(UPAA)* issuing the UPCR shall independently interact with the aerodrome operator, the authorised civil aviation authority *(the State Aviation Service of Ukraine)* and/or the authorised executive body in the field of state aviation *(the Ministry of Defence)* in accordance with the procedure established by the CMU.

The procedure for interaction is regulated by the Procedure 1427.

In particular, in accordance with clause 5 of the Procedure 1427, the UPAA must apply to the State Aviation Service of Ukraine and/or the Ministry of Defence in the event that it receives an application for a UPCR from a person intending to construct an object with a height of 45 meters or more in relation to the excess of the aerodrome *(heliport)* over the highest point of the landing area above sea level of the relevant aerodrome *(heliport).* The UPAA shall provide the UPCR within 30 calendar days from the date of registration of the application.

Procedure for determining the maximum height and planning restrictions for the development of land plots within the aerodrome environs in the UPCR.

In accordance with clauses 5-8, 11-18, 20-21, and 22 of the Procedure 1427, the UPAA sends the relevant information via the software tools of the Unified State Electronic System in the Construction Sector *("Electronic System")* to the State Aviation Service of Ukraine and/or the Ministry of Defence, which, in turn, provide their conclusion on the maximum height of objects on the aerodrome environs *(Aviation Approval under the new procedure)* via the Electronic System. The UPAA takes this conclusion into account when issuing the UPCR.

Exemption of WPPs from obtaining UPCR.

The Law on Rapid Reconstruction, which entered into force on 28 May 2024, provides for amendments making an exception for complex constructions of industrial facilities *(which include WPPs according to the Classifier NK 018:2023).*

Namely, it is allowed, without the development of urban planning documentation at the local level, on the basis of a reasoned conclusion of the authorised urban planning and architecture body of the village, town, or city council *("Reasoned Conclusion")* as a special type of the UPCR to:

- determine or change the designated purpose of the land plot, and
- transfer *(provide)* the land plot from state or municipal ownership to ownership or use, on territories outside settlements, if there is no approved urban planning documentation for such territories at the local level.

The construction customer is not required to obtain the UPCR, provided that the Reasoned Conclusion is obtained.

Procedure for obtaining approval for construction in the aerodrome environs if the UPCR may be waived for the construction of a WPP.

According to paragraph 14 of Clause 9^3 of Section V of the Law on Urban Planning, as amended by the Law on Rapid Reconstruction the Reasoned Conclusion shall be issued by the UPAA free of charge within 10 working days from the date of receipt of the application for its issuance. Pursuant to paragraph 40 of Clause 9^3 of Section V of the Law on Urban Planning, the Reasoned Conclusion must include, inter alia, information on the maximum permissible height of buildings, structures, and facilities in metres *(taking into account restrictions on the use of aerodrome environs established by the Air Code of Ukraine),* taking into account the typology of the surrounding buildings.

Application of the relevant legislation to the issue

- Technical defects in the procedure for transferring information through the Electronic System, resulting in delays in obtaining the Aviation Approval within the UPCR.
  The legislation in force prior to the regulation of obtaining the Aviation Approval through the Electronic System provided for applicants to apply for the Aviation Approval directly to the competent authorities. Difficulties arose in the process of obtaining the Aviation approval due to the additional time required to obtain such approvals and the need for direct communication with these authorities. In order to eliminate these difficulties, the procedure for obtaining the Aviation Approvals as part of the UPCR through the Electronic System was introduced. In practice, obtaining the Aviation Approvals for WPPs was quite problematic due to technical difficulties, as the Electronic System did not send all documents in the case of more than one land plot *(which is typical for WPPs).* However, at the time of writing, the technical issue has been resolved and no further regulatory action is required.
- Gaps in the regulation of obtaining the Aviation Approval for the construction of WPPs.
  In the case WPPs are located outside settlements, where there is no approved urban planning documentation at the local level, it is envisaged to obtain a Reasoned Conclusion as a special type of the UPCR, without developing the urban planning documentation. However, it is not specified how the competent authority issuing a Reasoned Conclusion can request the necessary data from the State Aviation Service of Ukraine and/or the Ministry of Defence. It is also specified that the Reasoned Conclusion must be issued within 10 business days taking into account the typology of the surrounding buildings. However, obtaining data from the State Aviation Service of Ukraine and/or the Ministry of Defence takes approximately 30 calendar days from the date of registration of the application.

Thus, it may not be technically possible to obtain the Aviation Approval as a part of the Reasoned Conclusion.

Conclusions and recommendations

- Amend paragraph 40 of Clause 9^3 of section V of the Law on Urban Planning:
  We recommend amending paragraph 40 of Clause 9^3 of Section V of the Law on Urban Planning to provide the Reasoned Conclusion for an object with a height of 45 meters or more in relation to the excess of the aerodrome *(heliport)* within the aerodrome environs shall be issued in accordance with the Procedure 1427 *(i.e. by contacting the State Aviation Service of Ukraine and/or the Ministry of Defence via the Electronic System).*

In this case, the Reasoned Conclusion shall be provided by the UPAA free of charge within 30 calendar days from the date of receipt of the request for its provision.

6. DETECTING OUTDATED AND INEFFICIENT REGULATIONS APPLICABLE TO THE CONSTRUCTION PROCESS

Issue: The Land Code contains inconsistencies in its wording in relation to the acquisition of ownership title to non-agricultural land plots by companies with foreign shareholders.

Due to some inconsistencies in its wording, Article 82 of the Land Code is interpreted in such a way as to exclude companies established in accordance with the laws of Ukraine by foreign companies and/or foreign natural persons from possessing non-agricultural land plots in Ukraine under private ownership.

Applied legislation

- Land Code of Ukraine dated 25 October 2001 No. 2768-III *(Land Code)*
  In Ukraine the main legislative act regulating the acquisition, ownership to land and other issues related to land ownership is the Land Code. Article 82 of the Land Code provides as follows:
  "1. Legal entities *(established by citizens of Ukraine or legal entities of Ukraine)* may acquire ownership of land plots for business activities in the following cases:

a) acquisition on the basis of a contract of sale, lease, donation, exchange, or other civil law agreements;
b) contribution of land plots to the charter capital by its founders;
c) acceptance of inheritance;
d) for any other reason provided for by law.

2. Legal entities established and registered in accordance with the legislation of a foreign state may acquire the right of ownership to non-agricultural land plots in the following cases:
a) within populated areas in the case of acquiring real estate objects and constructing objects related to business activities in Ukraine;
b) outside populated areas in the case of acquisition of real estate objects.

3. Agricultural land plots received as inheritance by legal entities which, cannot acquire them as property according to this Code, must be alienated within one year."

According to this Article 82 of the Land Code, the ownership title to the non-agricultural land plots may be acquired either by Ukrainian legal entities with 100% of Ukrainian shareholders, or legal entities established under the laws of foreign countries.

Application of the relevant legislation to the issue

This Article 82 of the Land Code omits to mention that legal entities registered under Ukrainian laws whose shares are held by foreign natural persons or legal entities. Such omission creates obstacles for companies registered under Ukrainian laws but owned by foreign shareholders when acquiring land plots for the development of WPPs.

When such a company attempts to acquire land plots that are privately owned by a natural or legal person, notaries often refuse to register the relevant sale and purchase agreements citing Article 82 of the Land Code which does not allow companies registered under Ukrainian laws but owned by foreign shareholders to acquire land plots.

When acquiring state or municipal land, such companies are treated as foreign entities and are required to obtain the approval of the CMU in the manner provided for by Article 129 of the Land Code.

Conclusions and recommendations

Given that companies registered under Ukrainian laws but owned by foreign shareholders have the same status as companies registered in Ukraine and owned by Ukrainian citizens of legal entities, we observe that companies registered under Ukrainian laws but owned by foreign shareholders should not be prevented from acquiring land plots in Ukraine. Thus, we argue that the Land Code should be amended and supplemented with provisions that clearly state that companies registered under Ukrainian laws but owned by foreign shareholders may acquire either private or public land plots under sale and purchase agreements and in other ways that are not prohibited by law. For this purpose, we suggest that Article 82 of the Land Code should be amended and supplemented with the relevant provisions that refer to companies registered under Ukrainian laws but owned by foreign shareholders.

7. LAND AND CONSTRUCTION ISSUES *(EASEMENT ISSUES, LAND PLANNING ISSUES)*

Issue No.1: Ukrainian legislation is ambiguous regarding the location, construction, and maintenance of access roads on land plots used under the right of easement

Applied legislation

- Law of Ukraine "On Energy Lands and Legal Regime of Special Zones of Energy Facilities" No. 2480-VI dated 09 July 2010 *(Law on Energy Lands)*

Application of the relevant legislation to the issue

Registration of rights to land plots for construction of access roads to energy facilities is conducted as follows.

Access roads to or within energy facilities may be constructed:

- as part of an energy facility based on one *(general)* project documentation for the construction of an energy facility *(e.g., a WPP);*
- as part of the energy facility based on of separate project documentation developed specifically for access roads;
- outside the energy facility, as an access road to it.

Articles 14, 16 and 76 of the Law on Energy Lands contain provisions allowing construction and maintenance of linear energy infrastructure facilities on land plots of all categories of land without changing their designated purpose, including based on easement.

Since access roads are not explicitly mentioned in Articles 14, 16 and 76 of the Law on Energy Lands, the easement may be denied depending on whether such roads are considered by the issuer to be a linear infrastructure facility.

Taking into account the concepts stipulated in Article 1 of the Law on Energy Lands, i.e. "energy infrastructure", "technological infrastructure of energy facilities", and "linear energy infrastructure facility", it can be concluded that the legislation indirectly allows the construction of access roads as linear energy infrastructure facilities on the land plots used under the right of easement within the project documentation of the energy facility. In other cases, described above, it is possible to take different positions.

Conclusions and recommendations

In order to overcome the above-mentioned obstacles, the following should be amended:

- Article 16 of the Law on Energy Lands to provide that easements may be established for linear energy infrastructure facilities, including access roads to or within the energy facility;
- Article 14 of the Law on Energy Lands to provide that easements may be established for the construction, placement, and operation of linear energy infrastructure facilities, including access roads to or within the energy facility, without changing the designated purpose of these land plots.

Issue No.2: WPP Developers face difficulties in establishing easements.

Applied legislation

- Land Code of Ukraine No. 2768-III dated 25 October 2001 *(Land Code)*
- Civil Code of Ukraine No. 435-IV dated 16 January 2003 *(Civil Code)*

- CMU Resolution "On Approval of the Standard Form of the Agreement on Establishment of Land Easement for the Placement of Energy Facilities and Electricity Transmission" No. 49 dated 26 January 2022
- Law of Ukraine "On Energy Lands and Legal Regime of Special Zones of Energy Facilities" No. 2480-VI dated 09 July 2010 *(Law on Energy Lands)*

Application of the relevant legislation to the issue

Establishing of easements is necessary for the construction and maintenance of energy facilities. However, administrators of state and municipal land often avoid registering the easement by insisting on a lease.

The lease provides for the transfer of the right to use the land plot by the land administrator, which often does not reflect the actual intentions of the parties – to use the access road as a public road, including by local residents.

Another controversial issue is the subject matter of a easement agreement. Article 16 of the Law on Energy Lands stipulates that a easement agreement shall be concluded with the owner or user of the land plot, while public authorities and local self-government bodies are rather land administrators of state and municipal land plots on behalf of the municipality or the state.

Conclusions and recommendations

We propose the following amendments to:

- the Law on Energy Lands in order to:

- specify that wind electrical facilities *(wind turbines)* and foundations under them, linear energy infrastructure facilities, energy storage facilities, access roads to or within the energy facility, can be located on land plots of all categories of land without changing their designated purpose, including by establishing permanent or fixed-term land easements without changing the land's designated purpose;
- explicitly provide for the right to conclude an easement agreement by enterprises that construct or operate energy and electricity transmission facilities;
- provide that if within 45 days from the date of registration of the application for the permit to develop technical land management documentation, the competent authority has not provided the permission or reasoned refusal, the applicant may apply to a land management organization to develop the documentation without such permit;
- clarify the possibility of expropriation of privately owned land plots in case of failure to reach an agreement on the establishment of easement;
- clarify the subject composition of the parties to the land easement agreement by supplementing with a land plot manager.

- the Land Code in order to:

- provide for the payment for land when establishing a land easement for state and municipal land plots shall not exceed the maximum amount of rent for state or municipal land established by law;

- provide for the right to demand the establishment of land easements for the construction and operation of access roads to or within the energy facility, wind electrical facilities *(wind turbines)*, foundations under them, and energy storage facilities.

Issue No.3: the Ukrainian legislation contains obstacles for usage of water fund lands for the construction of RES facilities.

Applied legislation

- Land Code of Ukraine dated 25 October 2001 No. 2768-III *(Land Code)*
- Water Code of Ukraine dated 6 June 1995 No. 213/95-BP *(Water Code)*
- CMU Resolution "On Approval of the Model Land Lease Agreement in the Complex with a Water Body Located on It" dated 02 June 2021 No. 572 *(Resolution 572)*
- CMU Resolution "On Approval of the Procedure for the Use of Water Fund Lands" dated 13 May 1996 No. 502 *(Resolution 502)*
- Law of Ukraine "On Regulation of Urban Planning Activity" dated 17 February 2011 No. 3038-VI *(Law on Urban Planning)*
- Transmission System Code, approved by the NEURC Resolution dated 14 March 2018 No. 309 *(Transmission System Code)*
- Distribution System Code, approved by the NEURC Resolution dated 14 March 2018 No. 310 *(Distribution System Code)*
- SOU-N EE 40.1-00100227-101:2014 "Norms of technological design of power systems and power grids with a voltage of 35 kV and above", approved by the Order of the Ministry of Energy and Coal Industry of Ukraine dated 04 August 2014 No. 543 *(Norms)*
- SOU-N EE 40.1-00100227-103:2014 "Implementation of the schemes for the long-term development of the IPS of Ukraine, individual power units and power districts. Rules" approved by the Order of the Ministry of Energy and Coal Industry of Ukraine dated 13 November 2014 No. 806 *(Rules).*

Application of the relevant legislation to the issue

Generally, the formation of a land plot involves defining it as an object of civil rights, determining its area and boundaries, and entering information about it into the State Land Cadastre. A land plot is considered formed from the moment it is assigned a cadastral number. This requirement is difficult to meet for water fund lands *(especially the seabed).* There is a dual use regime: water fund land and water mirror. The question arises as to who the manager of water fund lands is *(or is it the exclusive competence of the CMU in the case of the seabed water fund lands).*

Conclusions and recommendations

In order to mitigate issues related to the use of the water funds lands, we recommend the following actions:

- Eliminate gaps in the regulation of land and underwater plots located in coastal areas and within the sea shelf, determining the designated purpose of the plots, and regulating the procedures for issuing permits for construction works “under” and “over” the water;
- Adopt new rules for the construction and maintenance of wind turbines, connection of wind turbines to the grid, laying of cables, and construction of substations.

To solve problems with permitting and construction issues, we propose:

- To allow RES facilities to be constructed without having a DPT and other urban development documentation;
- To create preconditions for the use of standard international standard forms of contracts for the construction of RES facilities, abolishing the outdated regulation of general contracting agreements.

CATEGORY 2: GRID CONNECTION

8. EXTENSION OF THE VALIDITY PERIOD OF PERMITS, IN PARTICULAR, TECHNICAL CONDITIONS FOR CONNECTION TO POWER GRIDS

Issue: the validity period of the technical conditions for grid connection is not long enough for the Developers to launch WPP.

WPP project developers shall secure the right to connect to the grid in order to confirm the bankability of the project to equity and financial partners. In this respect, the existing legal framework and regulations on the validity of the grid connection permits *(so called "Technical Conditions" or "TCs")* create additional barriers for the WPPs' Developers.

Applied legislation

- Law of Ukraine "On Regulation of Urban Planning Activity" dated 17 February 2011 No. 3038-VI *(Law on Urban Planning)*
- Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII *(Law on Electricity Market)*
- Transmission System Code approved by the NEURC Resolution dated 14 March 2018 No. 309 *(Transmission System Code)*
- Distribution System Code approved by the NEURC Resolution dated 14 March 2018 No. 310 *(Distribution System Code)*

According to Article 21 of the Law on Electricity Market, grid connection services are provided based on the GCA which contains the TCs as an annex.

According to Article 29 of the Law on Urban Planning, the TCs shall be received and used for the development of the engineering project design for the construction of the power generation facilities.

Application of the relevant legislation to the issue

Neither the legislation nor the model GCAs adopted by the NEURC specify the validity period of the GCA. At the same time, according to Part 7 Article 30 of the Law on Urban Planning, the TCs are valid for 3 years for the construction of the WPPs and 2 years for other RES facilities.

Given the current conditions caused by the Martial law, the financial and logistical challenges for the construction of WPPs, and the massive damage caused by the shelling of energy infrastructure, such a short deadline for the construction of the WPPs seems unreasonable.

Such regulations appear to be ambiguous and lack clarity for the WPP Developers by:

- lack of transparent procedure for extension of the GCA and the TCs;
- limited availability of contractual instruments/ provisions to extend GCA/TCs *(e.g. force majeure clause);*
- significant risks of termination of the GCA due to expiration of the TCs;
- financial risks associated with the potential inability to compensate the grid connection fee upon expiration of the GCA/TCs;
- increased compliance and corruption risk due to potential misconduct by the grid operators.

Conclusions and recommendations

In this light, the following amendments are recommended to mitigate the above-mentioned risks.

Amend Article 30 of the Law on Urban Planning with the provisions envisaging that:

- the initial validity of the TCs for the WPPs should be 3 years, and the TCs validity for construction should be defined upon approval of the engineering project design documentation for the period reasonably required for the construction of the relevant internal and external power facilities. The relevant provisions shall include contractual conditions for the force majeure consequences including the extension of the grid connection for the period when performance of the relevant GCA was not available due to the force majeure event.
- the extended validity period *(for construction of the WPPs/SPPs)* of the TCs shall be subject to additional extension for the period when the performance of the TCs was impossible, subject to the force majeure confirmed in accordance with the applicable law of Ukraine.

Amend Article 21 of the Law on Electricity Market with the provisions envisaging that:

- duration of the GCA shall not be limited by the duration of the TCs, i.e. the respective agreement shall be valid prior to the full performance by the parties, unless the agreement shall be terminated due to significant breach by the customer *(e.g. non-payment of the grid connection fee, failure to conduct feasibility studies or project design engineering or other deadlines envisaged in the GCA and/or the TCs).*
- a minimum advance payment of the grid connection fee *(the amount of payment which will be further defined and agreed upon with the stakeholders and*

policymakers) per MW of connected capacity shall be paid subject to the conclusion of the GCA with the TSO for the connection of the renewable energy facilities to avoid malpractices related to blocking available capacities by the Developer, who does not have the resources for prompt development of the project.

Amend the Transmission System Code and the Distribution System Code to ensure compliance with the proposed amendments to the Law on Urban Planning and Law on Electricity Market defined hereabove.

9. ISSUANCE AND ACCOUNTING OF TECHNICAL CONDITIONS BASED ON "CONNECTED" RATHER THAN INSTALLED CAPACITY/INTRODUCTION OF "HYBRID" AND "LIMITED" TECHNICAL CONDITIONS, CREATION OF THE POSSIBILITY TO CONNECT TO EXISTING GENERATING CAPACITIES

Issue No. 1: SPPs, WPPs, and "hybrid" power plants are restricted to commissioning equipment with an installed capacity higher than the ordered one, as well as to freely combine types of such equipment.

Applied legislation

- Transmission System Code approved by the NEURC Resolution dated 14 March 2018 No. 309 *(Transmission System Code)*
- Distribution System Code approved by the NEURC Resolution dated 14 March 2018 No. 310 *(Distribution System Code)*
- Licensing Conditions for conducting economic activities for electricity production, as approved by the NEURC Resolution dated 27 December 2017 No. 1467 *(Licensing Conditions)*

Application of the relevant legislation to the issue

1. Practical restrictions on installed capacity exceeding the ordered capacity:
   In practice, the TSOs and the DSOs do not allow any increase in installed capacity above the ordered capacity prior to connection. Under these conditions, the connection capacity factor of the connection is up to 20% for the SPPs, up to 45% for the WPPs, up to 20% for stand-alone the ESSs, and up to 55% for hybrid power plants *(e.g., solar-wind)*, which can reach up to 75% when combined with ESSs. This significantly enhances the reliability of renewable energy production and reduces the need for balancing.

Investors might prefer projects with higher installed capacities than those ordered prior to connection, sacrificing generation peaks *(when market prices are typically low)* to maximise the use of the connection during low wind speeds for WPPs or during morning and evening peaks for SPPs, when market demand and prices are higher.

Requiring separate connections for each facility increases the cost to customers of connecting WPPs, SPPs, and ESSs, leads to higher depreciation charges by grid operators, results in higher transmission and distribution fees, and under-utilized grid capacity. This also delays commissioning *(SPPs and ESSs can be installed quickly, but building a new substation is time-consuming)*, which is problematic given Ukraine's need for quick solutions. Investing resources in restoring damaged facilities of the Ukrainian energy system is more sensible than constructing additional lines or reconstructing existing networks that are unnecessary for the generation and consumption operational models. However, TSOs tend to approve only connections that can withstand unrealistic conditions: maximum simultaneous generation from solar and wind energy, maximum simultaneous supply and withdrawal of SPPs, maximum SPPs supply at low market prices, and maximum withdrawal during low generation and at high market prices, all under the "N-1" criterion *(sudden loss of the most critical energy facility)*. Consequently, connections under such conditions are often deemed impractical or feasible only under complex and costly conditions for both the investor and the system operator.

2. Practical solutions for installed capacity exceeding the ordered capacity:
   In order to avoid interpretations by the TSOs and the DSOs *(which Developers are already facing)*, the Transmission System Code and the Distribution System Code should clarify that the installed capacity of installations may exceed the ordered capacity *(maximum calculated or forecasted capacity)*, considering the existing permitted *(connected)* capacity. Within the ordered capacity, the customer should be free to choose electrical equipment by energy source, type of activity *(production, consumption, storage)*, and installed capacity, as long as it does not exceed the ordered capacity at the connection point.

To mitigate potential system impacts, the TCs should require separate commercial accounting and effective management *(for producers)* and control *(for system operators)* tools for the power output at the connection point, as stipulated by the GCAs and the TCs. Notably, the current restrictions do not apply to SPPs, where the installed capacity of generating equipment may exceed the ordered capacity if it is limited by the capacity of the inverter. This principle should be applied consistently in the proposed solution.

The principle that the ordered capacity is lower than the installed capacity of the equipment should also be reflected in the Licensing Conditions.

Please note that the concept of "hybrid" power plants is becoming more and more popular and has been implemented in certain European countries, such as Poland, and is known as the "cable pooling". In Poland, the respective law came into force on 1 October 2023. So far, the practical experience of its implementation in Poland is very limited, but certain precautions should be taken, in particular it is necessary to avoid any demands from the side of operators to pay additional connection fees, unless they are related to the installation of the additional control systems at the connection, restrictions to cable pool standalone ESSs, lack of transparency in in issue of the grid connection conditions for the cable pooling.

Conclusions and recommendations

1. Amendments to the Transmission System Code and the Distribution System Code:
   The provisions in the TSC and DSC regarding the connection of facilities should be amended to clearly state that the installed capacity of installations may exceed the ordered capacity *(maximum calculated or forecasted capacity),* considering the existing permitted *(connected)* capacity. Customers should be free to choose electrical equipment by energy source, type of activity *(production, consumption, storage),* and installed capacity, as long as it does not exceed the ordered capacity at the connection point. Compliance will be ensured by technical specifications requiring separate commercial accounting and effective management *(for producers)* and control *(for system operators)* tools for the power output at the connection point, as stipulated by the GCA and TCs.

2. Amendments to the Licensing Conditions:
   The principle that the ordered capacity is lower than the installed capacity of the equipment should be reflected in the Licensing Conditions for conducting economic activities for electricity production.

Issue No. 2: the source of electricity for the ESSs connected to SPPs and WPPs and the volume of electricity supplied to producers is limited.

Legislation applied

- Transmission System Code approved by the NEURC Resolution dated 14 March 2018 No. 309 *(Transmission System Code)*
- Distribution System Code approved by the NEURC Resolution dated 14 March 2018 No. 310 *(Distribution System Code)*
- Potentially the Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII *(Law on Electricity Market)*
- Option to withdraw electricity from the grid to the ESSs for producers with an ESSs operator's license:
  According to Part 1 of Article 30 of the Law on Electricity Market, a producer has the right to use the ESSs at the site of licensed production activities without obtaining a separate license for energy storage, provided that the storage facility takes electricity exclusively from the producer's generating facilities. Additionally, the total capacity of electricity supplied from the producer's networks to the Ukrainian energy system must not exceed the installed capacity of the ESS. These restrictions apply only if the producer does not have a separate storage license.
- Lack of possibility to withdraw electricity from the grid to the ESS for producers without an ESS operator's license:
  The Transmission System Code *(paragraph 7.12.1 of Chapter 7 of Section III)* and the Distribution System Code *(Paragraph 4.13.1 of Section IV)* both restrict producers from taking electricity from the grid for the ESSs, regardless of whether the producer has an ESS operator's license.

Application of the relevant legislation to the issue

- Problems caused by the absence of the option:
  Preventing producers from drawing electricity from the grid artificially inflates the cost of ESS services. Currently, in order to draw electricity from the grid, ESS operators have to construct unnecessary energy infrastructure to connect separate facilities *(ESSs and power generating facilities).* Often, this is unfeasible due to insufficient connection capacity to support two mutually exclusive maximum outputs *(e.g., simultaneous maximum output from WPPs and stored energy in the ESSs).*
- Legislative changes required to remove the restriction
  Amendments to the Transmission System Code and the Distribution System Code are required to specify that the restriction applies only to producers without the ESS operator's license. Licensed producers should be allowed to take electricity from any source, provided that the total capacity supplied to the Ukrainian energy system does not exceed the ordered capacity (maximum estimated or forecasted capacity), considering the existing permitted *(connected)* capacity. These amendments should also allow multiple daily use of the ESS: drawing electricity during surplus generation and drawing electricity from the grid when market prices are low.

To address the output limitation, the technical specifications should require separate commercial accounting and effective management *(for the producer) and control (for the system operators)* tools for the power output at the connection point, as specified by the GCA and the TCs. When the generator is willing to obtain a license for electricity storage and comply with an electricity storage license, this should be facilitated.

If the NEURC determines that Part 1 of Article 30 of the Law on Electricity Market needs amending in order to implement the proposed approach in the TSC and DSC, consultations with all relevant stakeholders will be necessary.

Conclusions and recommendations

- Amendments to the Transmission System Code (paragraph 7.12.1 of Chapter 7 of Section III) and the Distribution System Code *(paragraph 4.13.1 of Section IV)*
  Both the Transmission System Code and the Distribution System Code should be amended to specify that the restriction applies only to producers without an ESS operator's license. Licensed producers should not be restricted to using electricity only from their own generating facilities but should be allowed to use electricity from any source. This is subject to the condition that the total capacity supplied from the producer's networks to the Ukrainian energy system does not exceed the ordered capacity (*maximum estimated or forecasted capacity),* considering the existing permitted *(connected)* capacity. The amendments should also facilitate multiple daily use of the ESSs: drawing electricity during surplus generation and drawing electricity from the grid when market prices are low.
- Possible amendment of Part 1 of Article 30 of the Law on Electricity Market
  If the NEURC concludes that Part 1 of Article 30 of the Law on Electricity Market needs to be amended to support the proposed approach in the Transmission System Code and the Distribution System Code, appropriate consultation with all relevant stakeholders will be required.

10. INTRODUCING THE POSSIBILITY OF BOOKING TECHNICAL CONDITIONS UNDER THE CUSTOMER'S FINANCIAL GUARANTEE

Issue: The WPP Developers face challenges to ensure viable grid connection at the beginning of the WPP development.

Due to the lengthy process of the initial scope of feasibility studies required to take a decision on WPP development in certain areas, the WPP Developers face significant challenges in ensuring a viable grid connection in the beginning of the development.

Applied legislation

- Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII (Law on Electricity Market)
- Transmission System Code approved by the NEURC Resolution dated 14 March 2018 No. 309 *(Transmission System Code)*
- Distribution System Code approved by the NEURC Resolution dated 14 March 2018 No. 310 *(Distribution System Code)*

According to the provisions of the Transmission System Code and the Distribution System Code the Developer could not apply for the GCA before securing land rights for the land plot on which the electricity generating facility will be located.

Application of the relevant legislation to the issue

Such regulation creates significant challenges such as:

- land allocation and registration of the land rights require significant costs to acquire the relevant right; and
- development procedures required to take investment decisions *(such as environmental assessment, wind measurements etc.)* could take more than a year to complete.

As a result, WPP Developers are faced with the uncertainty of either:

- to take investment decisions to invest in extensive development procedures and land allocation without secured grid connection right, and\or
- to wait for all feasibility studies and development procedures to be completed, at the risk that their grid connection feasibility studies could be outdated and the required capacity could be booked by the third parties or *(alternatively)* grid connection could require significant investments in additional grid developments.

Conclusions and recommendations

Such barriers and risks could be mitigated by introducing the possibility of booking technical conditions under the customer's financial guarantee. The relevant mechanism will involve the conclusion of the contractual instrument *(e.g. Capacity Booking Agreement)* with the TSO/DSO envisaging:

- the guaranteed right to enter into a GCA based on an agreed technical scheme for a reasonable period sufficient to conduct preliminary feasibility studies, assessments, and measurements *(specific duration to be defined in communication with market stakeholders and policymakers);*
- the payment of the guarantee fee *(specific amount of the guarantee payment to be defined in communication with market stakeholders and policymakers and shall ensure reasonable barriers for blocking capacity by the "paper" projects and, while not creating an undue burden on bona fide Developers)* by the WPP Developer to the TSO/DSO with the following consequences:
  (i) the guarantee fee shall be counted towards grid connection payments if the GCA will be executed within the validity period of the Capacity Booking Agreement;
  (ii) the guarantee fee shall be used by the TSO/DSO for the development of the grids in the relevant region if the WPP Developer failed to apply for the GCA within the validity period of the Capacity Booking Agreement or has waived the right to do so.

The implementation of the relevant capacity booking mechanism requires amendments to the Law on Electricity Market by amending Article 21 or introducing the new Article 21-1 providing for:

- the right of the WPP Developer to enter into the Capacity Booking Agreement with the TSO and/or DSO;
- the significant conditions of the TSO/DSO and *(alternatively)* approval of the model Capacity Booking agreement by the NEURC, including:
  (i) the validity period of the Capacity Booking Agreement;
  (ii) amount of the guarantee payment;
  (iii) conditions for the use of the guarantee payment by the relevant TSO/DSO;
  (iv) conditions for termination of the Capacity Booking Agreement.
- procedure for application and execution of the Capacity Booking Agreement.

Upon adoption of the relevant amendments to the Law on Electricity Market, the NEURC should amend the Transmission System Code and the Distribution System Code to ensure compliance with the law and adopt the model form of the Capacity Booking Agreement.

11. CHANGING THE METHODOLOGY FOR CALCULATING POWER SYSTEM OPERATING MODES FOR THE PURPOSE OF ISSUING TECHNICAL CONDITIONS

Issue: Ukrainian legislation contains the unfair methodology for calculating the state of the power grid for the purpose of connecting RES facilities.

At the development stage of RES projects, the key issue for investors is to assess their business and operational risks associated with connecting RES facilities to the power grid, in particular, the possibility of generating RES capacity at the location under consideration and the cost of connecting to the power grid.

Considering the provisions of paragraph 7.5.2 of Chapter 7 of Section III of the Transmission System Code, such an assessment may be performed by the investor by commissioning a specialised company to prepare a feasibility study of the connection/delivery scheme of the facility *(hereinafter referred to as the feasibility study)*, which, in turn, must meet the requirements of regulatory and technical documentation.

Applied legislation

As of today, the main regulatory and technical documents governing the feasibility study Developers and whose requirements NPC Ukrenergo, the TSO, insisting on compliance with are:

- Transmission System Code, approved by the NEURC Resolution dated 14 March 2018 No. 309 *(Transmission System Code)*
- SOU-N EE 40.1-00100227-101:2014 "Standards of technological design of power systems and electrical networks with voltage of 35 kV and higher", approved by the Order of the Ministry of Energy and Coal Industry of Ukraine dated 4 August 2014 No. 543 *(Standards)*
- SOU-N EE 40.1-00100227-103:2014 "Implementation of schemes for the long-term development of the IPS of Ukraine, individual power units and power districts. Rules", approved by the Order of the Ministry of Energy and Coal Industry of Ukraine dated 13 November 2014 No. 806 *(Rules)*

Application of the relevant legislation to the issue

These regulations were adopted in 2014, and therefore do not provide for or take into account the above:

- the scenario of rapid and active development of alternative energy in 2019-2021 and the actual impact of the connection of RES facilities on the overall balance of the energy system;
- integration of the IPS of Ukraine into ENTSO-E;
- development of the ESF – there are no provisions related to ESF;
- options for connecting hybrid power plants and power plants with ESF to the power grid;
- a standardised list and scope of initial data for the development of the feasibility study, their lifespan, and the procedure for their modification;
- existing international experience in the procedure for developing a calculation model for connecting new RES facilities. First of all, determining the level of participation in the capacity models of existing RES and RES under the concluded connection agreements, in particular, WPPs, SPPs, and ESFs, based on the principle of taking into account technological differences and specifics of their operation schedule during the day and season (for example, the generation of the connected RES facility should be accepted as 100% of the generation, the generation of other RES facilities for which technical specifications have been issued should be accepted in accordance with the specifics of the estimated time of day and season: at 13:00 in summer, SPP =100%, WPP=50%; at 19:00 in summer, SPP = 25%, WPP = 75%, etc.);
- existing international experience regarding the inclusion in the calculation models of the projected capacity of RES *(by type)* in accordance with the terms of the concluded connection agreements and their territorial location *(mutual influence);*
- the need to introduce a more flexible approach to the need to ensure the N-1 criterion when connecting a RES facility to the grid, which would allow the customer to choose, at its own discretion, between the following options for ensuring this criterion:
  (i) installing automation for unloading the RES plant *(a common solution in European practice);*
  (ii) eliminating a "bottleneck" in the power grid along with other connection customers;

(iii) postponing the implementation of the RES project until the bottleneck is removed by the system operator as part of the Transmission/Distribution System Development Plan.

Under such conditions, the application of the current provisions of the Rules and regulations within the feasibility study, or the impossibility of their application due to their absence, as in the case of the connection of the ESF, does not allow:

- to the system operator:

- objectively assess the impact of the connection of this facility on the operation of the IPS of Ukraine;

- for the investor to determine:

- the possibility of generating RES capacity at the considered location;
- a reasonable *(minimum required)* list of technical measures necessary to ensure the output of the RES facility;
- the level of costs associated with connecting its facility to the electricity grid.

Considering the above, the current requirements of the regulatory and technical documents used to assess the future development of the IPS of Ukraine require modernization, greater flexibility and adaptation of forecasting models.

Conclusions and recommendations

To improve the issue under consideration, it is necessary to amend the following regulations:

- Transmission System Code;
- Standards;
- Rules.

It should also be noted that achieving a positive result from the implementation of the proposed amendments is only possible if the legislation and regulations simultaneously include provisions aimed at ensuring *(guaranteeing)* the possibility for the investor to connect the RES facility to the power grid according to the scheme agreed by the system operator as part of the developed feasibility study.

12. INTRODUCTION OF DIRECT CONNECTION TO CONSUMERS *(WITH EXEMPTION FROM PAYMENT OF DISTRIBUTION AND TRANSMISSION TARIFFS)*

Issue: The Ukrainian legislation on the direct connection of renewable energy facilities to internal consumer grids is underdeveloped.

Given the massive shelling of energy infrastructure by russian military forces, industrial consumers consider distributed energy facilities combined with energy storage as a key prerequisite for the energy security of business. Combined with the EU's climate policy and the possible course of the Carbon Border Adjustment Mechanism *(CBAM)* implementation in Ukraine, these factors together create strong incentives for the projects that anticipate direct connection of renewable energy facilities to consumers' internal grids.

Applied legislation

- Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII *(Law on Electricity Market)*
- Law of Ukraine "On Alternative Energy Sources" dated 20 February 2003 No. 555-IV *(Law on Alternative Energy Sources)*
- Resolution of the National Commission for the State Regulation of Energy and Utilities of Ukraine *(NEURC)* "On Approval of the Procedure for Approving the Construction and Operation of a Direct Line" dated 4 September 2018 No. 954 *(Resolution 954)*

Application of the relevant legislation to the issue

The current Law on Electricity Market provides for several regulatory instruments to secure such connection:

- "Direct line" under Article 25 of the Law on Electricity Market

The "direct line" regulatory regime allows for the connection of power producers' and consumers' electric facilities. Such a mechanism is advantageous for power producers and potential consumers as:

- it allows to consume electricity without paying the TSO/DSO tariffs;
- it allows contractual and technical flexibility in the construction of the direct line and the supply of the electricity.

On the other hand, the current regulatory approach to the "direct line" creates significant challenges, such as:

- with limited exceptions, the construction of the direct line requires the approval of the NEURC as foreseen by the Resolution 954;
- the "electric disconnection" of the electrical facilities connected to the "direct line" from the DSO/TSO grids, i.e. significantly limits balancing opportunities.

Active consumer mechanism under Article 58[1] of the Law on Electricity Market.

Article 58[1] of the Law on Electricity Market provides that non-household consumers may use electricity generating facilities that are connected to electric power systems designated for the consumption of electricity directly or through the networks of such consumers, provided that the installed capacity of such electricity generating facilities does not exceed the permitted *(contractual)* capacity of the electric electricity generating facilities of such consumers.

In this case:

- the regulatory mechanism of "self-production" is applied in accordance with Article 9[6] of the Law on Alternative Energy Sources, providing that the residues of the generated and unused electricity load could be sold to the respective electricity suppliers;
- grids connecting power generation and consumption facilities shall not be deemed as "direct lines" under Article 25 of the Law on Electricity Market if the electricity generation and consumption facilities are located on the same or adjacent land plots.

In addition to that the Article 58[1] of the Law on Electricity Market allows consumers to connect power generation facilities owned and operated by third parties with an installed capacity, each of which does not exceed the permitted *(contractual)* capacity of the electrical facilities of such consumer, provided that the entire volume of electricity produced by such generating facilities is consumed by the respective consumer.

Although the outlined provisions of Article 25 and Article 58-1 of the Law on Electricity Market provide for the opportunity to connect electricity generating facilities to the consumer's grids, the following barriers are identified:

- consumers' facilities connected through the "direct line" under Article 25 of the Law on Electricity Market could not be electrically connected to the DSO/TSO grids.
- Electricity generating facilities located on land plots far from the consumers' facilities *(non-adjacent land plots)* could not be operated under the "active consumer" mechanism pursuant to Article 58[1] of the Law on Electricity Market.

Conclusions and recommendations

The relevant constraints could be removed by amending the relevant articles of the Law on Electricity Market providing that:

- Article 25 of the Law on Electricity Market could be amended with the provisions eliminating requirement of electrical disconnection of electrical facilities connected to the "direct line" from the TSO/DSO networks;
- Article 58[1] of the Law on Electricity Market shall be amended with the provisions allowing consumers to connect power generating facilities located on any land plot, provided that their installed capacity does not exceed the permitted *(contractual)* capacity of the electrical facilities of such consumer and provided that the entire volume of electricity produced by such generating facilities is consumed by the relevant consumer.

CATEGORY 3: INCENTIVES FOR THE CONSTRUCTION OF RES TO OPERATE IN THE ELECTRICITY MARKET

13. REFORMING THE MECHANISM OF CONTRACTS FOR DIFFERENCE *(CFD)* AND FIP *(WITHOUT THE PARTICIPATION OF THE GUARANTEED BUYER)*

Issue: Current support schemes are insufficient to ensure bankability of renewable energy development.

WPP projects in Ukraine require a reliable support scheme to ensure a bankable off-take of the electricity. The current support scheme combined with regulatory loopholes in the electricity market could be deemed as bankable as the existing state-owned off-taker *(SE Guaranteed Buyer)* proved to be problematic. For example, the payment level by the Guaranteed Buyer in 2024 is less than 40%.

Applied legislation

- Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII *(Law on Electricity Market)*
- Law of Ukraine "On Alternative Energy Sources" dated 20 February 2003 No. 555-IV *(Law on Alternative Energy Sources)*
- CMU Resolution "On approval of the list of services of general economic interest" dated 23 May 2018 No. 420 *(Resolution 420)*
- CMU Resolution "On Approval of Criteria for Assessing the Admissibility of State Aid to Business Entities for Environmental Protection" dated 11 October 2021 No. 1060 *(Resolution 1060)*
- NEURC Resolution "On approval of regulatory acts governing the activities of the Guaranteed Buyer and the purchase of electricity under the "green" tariff" dated 26 April 2019 No.641 *(Resolution 641)*

Application of the relevant legislation to the issue

The current support scheme for the new projects provides for the feed-in premium mechanism for renewable energy producers awarded based on "green" auctions bids as provided by Article 9[4] of the Law on Alternative Energy Sources and Article 71 of the Law on Electricity Market. The relevant auctions could be held based on the quote defined by the CMU for certain renewable energy technologies.

The RES Developers and investors willing to participate in the auction shall provide a financial guarantee of EUR 5 per 1 kW of installed capacity.

The maximum auction bid for wind power producers is up to EUR 900 per 1 MWh of power output.

The winner of the auction is entitled to enter into a contract for difference with the full name the "Contract on the provision of services to support the production of electricity from alternative energy sources under the market premium mechanism" *(FiP/CfD)* with the Guaranteed Buyer providing for feed-in premium support scheme as defined in Article 9[4] of the Law on Alternative Energy Sources, Article 71 of the Law on Electricity Market as well as the Resolution 641 *(amended on 24 January 2024)*.

FiP/CfDs awarded based on the auctions provide for reciprocal payments by the Guaranteed Buyer and renewable energy producers if the average sales price on the electricity market is higher than the strike price, defined by the producer's bid at the auctions *(the difference to be paid by the Guaranteed Buyer to the renewable energy producer)*, or is lower than the producer's bid at the auction *(the difference to be paid by the renewable energy producer to the Guaranteed Buyer)*.

In order to collect funds for settlements with renewable energy producers, the Guaranteed Buyer provides the TSO with the service on increase of the share of electricity generation from alternative energy sources which is regulated as the renewable energy support scheme under Article 62 of the Law on Electricity Market.

Respectively, the TSO collects funds from the electricity consumers through the electricity transmission service tariff. However, a regulatory initiative is currently under discussion to separate the relevant costs from transmission service tariffs by introducing an additional payment for electricity consumers to finance renewable energy support schemes.

Despite the formal existence of the support scheme outlined above it does not appear to be sufficient to ensure the bankability of renewable energy developments that are subject to:

- lack of approved renewable energy support quotes to conduct auctions;

- financial deficit of the Guaranteed Buyer due to regulatory loopholes;
- malpractice by the TSO in failing to accept the Guaranteed Buyer's service as well as negligence in collecting debts from the consumers;
- negligence by the NEURC related to politically affected tariff setting;
- risks related to the qualification of the given support scheme as inappropriate state aid as provided by the Law of Ukraine "On State Aid to Business Entities" dated 1 July 2014 No. 1555-VII *(Law on State Aid)* and EU state aid law and regulations *(incl. TFEU Article 107 and Guidelines on State aid for climate, environmental protection, and energy 2022 (2022/C 80/01).*

Conclusions and recommendations

In this regard, the following legislative and regulatory developments should be considered in order to ensure the bankability of the support scheme for renewable energy projects:

- ensure the bankable feed-in premium scheme for a period of no less than 12 years, allocated through technologically neutral auctions based on the report on the assessment of the adequacy *(sufficiency)* of generating capacities to meet the projected demand for electricity and ensure the necessary reserve developed by the TSO and defined by the NEURC in accordance with Article 19 of the Law on Electricity Market;
- remove the Guaranteed Buyer as a proxy in settlements between renewable energy producers and the TSO responsible for the accumulation of costs from electricity consumers, e.g. allowing direct contractual relationships between renewable energy producers and the TSO;
- develop a criteria for assessing the admissibility of state aid to RES producers in accordance with the Law on State Aid and the EU state aid legislation and regulations *(including Article 107 TFEU and the Guidelines on State Aid for Climate, Environmental Protection and Energy 2022 (2022/C 80/01).*

Therefore, the following amendments shall be considered.

- Amendment of Article 29 of the Law on Electricity Market envisaging mandatory participation of RES producers in technologically neutral auctions for new power generation facilities;
- Amendment to Article 62 of the Law on Electricity Market to adjust the existing renewable energy support scheme to the proposed mechanism of direct contractual relations between renewable energy producers and the TSO;
- Amendment to Articles 65 and 71 of the Law on Electricity Market to remove the Guaranteed Buyer as a proxy in settlements between renewable energy producers and the TSO, providing for direct contractual relationships between renewable energy producers and the TSO;
- Amendment of Article 9^4 of the Law on Alternative Energy Sources to provide for direct contractual relationships between renewable energy producers and the TSO;
- Further amendment of secondary legislation to implement proposed amendments to the Law on Electricity Market and Law on Alternative Energy Sources, and assessment of the admissibility of the state aid to RES producers in accordance with the Law on State Aid and EU state aid legislation and regulations *(including Article 107 TFEU and the Guidelines on State Aid for Climate, Environmental Protection and Energy 2022 (2022/C 80/01)*, including but not limited to:
  - amendment of the Resolution 641;
  - amendment of the List of Services of General Economic Interest approved by the Resolution 420; and
  - amendment of the Criteria for assessing the admissibility of state aid to business entities for environmental protection approved by the Resolution 1060.

14. DISTRIBUTION OF CROSS-BORDER CROSSINGS FOR RES

Issue: The WPP producers in Ukraine face a lack of mechanisms for exporting electricity across borders.

The Ukrainian renewable energy market is transitioning toward market-based trading mechanisms and corporate PPAs. Given the price disparities between electricity in Ukraine and EU countries, many RES producers are keen on exporting electricity to the EU or Energy Community countries. However, several technical and regulatory constraints must be considered, including available physical cross-border capacity and rules for cross-border access via auctions. Corporate PPAs typically span more than 10 years, but the current auction system limits cross-border capacity allocation to just one year. As a result, renewable energy producers may lack a mechanism for long-term cross-border corporate PPAs.

Applied legislation

- Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII *(Law on Electricity Market)*
- NEURC Resolution "On Approval of the Rules for Managing Restrictions and the Procedure for Allocating the Capacity of Interstate Crossings" dated 03 April 2020 No. 763 *(Resolution 763)*
- EU Commission Regulations:
  - 2015/1222 *(guideline on capacity allocation and congestion management)*
  - 2016/1719 *(guideline on forward capacity allocation)*
  - 2019/943 *(internal market for electricity)*

Access to cross-border capacity is governed by Articles 38-43 of the Law on Electricity Market and the Resolution 763, which approves the Procedure for cross-border capacity allocation *(dated 03 April 2020)*. Ukrainian legislation aligns with Energy Community acquis, including EU Commission Regulations such as:

- 2015/1222 *(guideline on capacity allocation and congestion management)*
- 2016/1719 *(guideline on forward capacity allocation)*
- 2019/943 *(internal market for electricity)*

Allocation process is conducted as follows. Cross-border capacity is allocated through daily, monthly, and annual auctions organised by the Ukrainian TSO, NEC Ukrenergo. These auctions can be unilateral *(organised from each side of the border)* or joint *(where buyers and sellers purchase capacity simultaneously on both sides)*. Joint auctions take place on the JAO platform.

Application of the relevant legislation to the issue

The RES producers planning to export electricity to the EU and/or Energy Community countries must adhere to Ukrainian legislation regarding cross-border capacity allocation. This requirement applies when renewable electricity is exported based on either direct corporate PPAs or sleeved corporate PPAs.

Cross-border capacity allocation operates on a transparent and competitive basis. NEC Ukrenergo has experience in securing daily, monthly, and annual access to cross-border capacity. However, in the spring 2024, NEC Ukrenergo did not allocate any capacity for export due to the massive destruction of generation capacities resulting from russian aggression in Ukraine. Currently, Ukraine imports electricity from EU countries and has a total capacity of 1.7 GW, which has been extended recently after Ukraine joined ENTSO-E. Noteworthy, export capacity is limited to 550 MW. NEC Ukrenergo plans to extend the export capacity, but it requires construction of new interconnectors and upgrading of networks in the neighbouring countries.

Most corporate PPAs typically span between 8 and 15 years. These agreements allow companies to secure a fixed electricity price over the contracted period, providing long-term revenue certainty for power generators and enabling financing for renewable energy projects. The validity term of a PPA ensures stability while contributing to carbon reduction targets.

However, there is a challenge when it comes to entering direct or sleeved corporate PPAs: the legislation does not grant more preferential access to cross-border capacity for the RES producers. The Energy Community and the EU countries have similar rules for cross-border access. Consequently, parties to such agreements should be aware that cross-border capacity should be allocated for a maximum of one year and secured for each subsequent year, which may result in bankability risks for such corporate PPAs.

Notably, this limitation does not apply to virtual corporate PPAs, which do not involve the physical supply of electricity and tend to be more financial agreements, such as Contract for Difference *(CfD)*.

Conclusions and recommendations

Given the current regulations governing cross-border capacity access – where capacity may be allocated on an intraday, monthly, or annual basis – it is unlikely that physical and sleeved corporate PPAs envisioning electricity export would be feasible in Ukraine. The inability to secure long-term power supply poses a significant challenge. Parties may enter into long-term corporate PPAs, but sellers may struggle to secure access to cross-border capacity access due to a failure to win tenders for the next year. Unfortunately, legislative changes to mitigate this issue are not feasible, as Ukrainian rules are aligned with the Energy Community regulations.

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This Report highlights important steps to unlock the potential of wind energy in Ukraine. Legislative initiatives should focus on removing barriers by addressing obstacles to wind energy development, such as regulatory challenges and bureaucratic processes. This is why we are continuing to work with the WPP Developers to fully understand and help remove barriers to the development of the WPPs in Ukraine. This will also have an impact on the other crucial aspects of the development of the WPPs, which are investment security and infrastructure optimisation contributing to ensuring a favourable investment climate to attract private sector funding and increasing grid capacity and storage capabilities to manage variable wind generation.

RESULT II
LEGISLATIVE INITIATIVES

This section of the report, prepared within the framework of the project "Legislation Fostering Wind Energy Development in Ukraine" *(the "Project")*, presents detailed legislative initiatives aimed at addressing legislative gaps in the renewable energy sector, in particular wind energy, identified in the framework of a comprehensive assessment of the current Ukrainian renewable energy legislation conducted by experts from leading law firms working in the energy sector of Ukraine *(Result 1 of the Project)*.

This section of the report is the Result II of the Project.

Main points:

- The proposed legislative initiatives are based on a comprehensive assessment of the renewable energy legislation as of 1 June 2024.
- The section includes additional issues revealed by the wind market participants after reviewing Result I of the Project.
- Some of the proposals presented in this section are already being considered by the Verkhovna Rada of Ukraine *(Parliament of Ukraine)*.
- The proposed legislative initiatives are structured following the existing legal acts *(laws)* that regulate the design and construction of wind farms and other RES facilities.

CHAPTER 1: URBAN DEVELOPMENT ACTIVITY

The Law of Ukraine "On Regulation of Urban Planning Activity" dated 17 February 2011 No. 3038-VI *(Law on Urban Planning)* is the basic document regulating urban planning in Ukraine. The proposed amendments to the Law on Urban Planning include:

- not to extend the requirement to develop a DPT for WPPs for the period of martial law and within 5 years from the date of its expiration or cancellation;
- a reasoned conclusion for an object with a height 45 meters or more relative to the aerodrome *(heliport)* elevation within the aerodrome environs, shall be issued taking into account the Procedure for Determining the Maximum Height and Planning Restrictions for the Development of Land Plots in the Aerodrome Environs in Urban Planning Conditions and Restrictions and Information Interaction for this Purpose approved by the Resolution of the Cabinet of Ministers of Ukraine dated 23 December 2021 No. 1427 *(Procedure 1427) (i.e., by contacting the State Aviation Service of Ukraine and/or the Ministry of Defence through the Electronic System)*.

The draft law with an explanatory note and comparative table is attached as Annex 1 to this report.

CHAPTER 2: LAND ISSUES

The Land Code of Ukraine dated 25 October 2001 No. 2768-III *(Land Code)* and the Law of Ukraine "On Energy Lands and Legal Regime of Special Zones of Energy Facilities" dated 09 July 2010 No. 2480-VI *(Law on Energy Lands)* regulates land relations arising from the provision and use of land plots for the location of energy facilities. Additionally, the Water Code of Ukraine dated 06 June 1995 No. 213/95-BP *(Water Code)* defines the specifics of disposal of water fund lands.

The following proposals are made to amend the Land Code, the Law on Energy Lands, and the Water Code:

- a clear definition that companies registered under Ukrainian law but owned by foreign shareholders may acquire both privately and state-owned land plots on the basis of purchase and sale agreements and in other ways not prohibited by law;
- provides for the possibility of establishing easements for linear energy infrastructure facilities, including access roads to or within the energy facility;
- provides for the possibility of establishing easements for the construction, placement, and operation of linear energy infrastructure facilities, including access roads to or within the energy facility, without changing the designated purpose of these land plots;
- replace the right to enter into a easement agreement with a corresponding obligation;
- provide for the opportunity of free use of state-owned and municipally owned land plots on the right of easement for the construction, reconstruction, overhaul, placement, operation, and maintenance of access roads to or within the energy facility;
- if within 45 days from the date of registration of an application for permission to develop technical land management documentation the competent authority has not issued a permit or a reasoned refusal, the applicant may apply to a land management organisation to develop the documentation without such permission;

- the opportunity of compulsory alienation of privately owned land plots in case of failure to reach an agreement on the establishment of a easement has been established;
- the list of parties to an agreement on the establishment of a land easement was expanded to include the land plot manager;
- eliminated gaps in the regulation of land and underwater plots located in coastal zones and within the sea shelf by defining the intended purpose of the plots and regulating the procedures for issuing permits for construction works 'under' and 'over' water.

The draft law with explanatory note and comparative table is attached as Annex 2 to this report.

CHAPTER 3: ENVIRONMENTAL IMPACT

The Law of Ukraine "On Environmental Impact Assessment" dated 23 May 2017 No. 2059-VIII *(Law on EIA)* regulates the procedure for assessing the environmental impact of wind energy projects. The proposed amendments to the Law on EIA are aimed at introducing the following changes:

- extending the validity of the environmental impact assessment conclusion and the possibility of obtaining permits based on it;
- defining changes in the parameters of wind power plants as activities exempt from re-evaluation of environmental impact during martial law if they meet the Criteria approved by the Cabinet of Ministers of Ukraine;
- exemption from re-evaluation of environmental impact assessment if the changes made to the parameters of activities, including wind power plants, do not have a significant impact on the environment in accordance with the Criteria approved by the Cabinet of Ministers of Ukraine.

Due to the European integration process and the ongoing war, Ukraine is already in the process of negotiating with the EU on the possibility of not applying strategic assessment and environmental impact assessment procedures for reconstruction projects. Given the state of Ukraine's energy system, it is also advisable to simplify the environmental impact assessment procedure for wind energy projects that are just starting in Ukraine.

The draft law with explanatory note and comparative table is attached as Annex 3 to this report.

CHAPTER 4: REGULATION OF COMMERCIAL AND CIVIL LAW RELATIONS

The Civil Code of Ukraine dated 16 January 2003 No. 435-IV *(Civil Code)* and the Commercial Code of Ukraine dated 16 January 2003 No. 436-IV *(Commercial Code)* regulates issues related to legal relations between individuals and legal entities. Both codes cover the issue of compensation for damages.

The proposed amendments stipulate that the parties may agree to compensate damages for delay in the performance of non-monetary obligations.

The draft law with explanatory note and comparative table is attached as Annex 4 to this report.

CHAPTER 5. TRANSPORTATION OF EQUIPMENT

The Resolution of the Cabinet of Ministers of Ukraine "On the fare of oversized and heavy vehicles on roads, streets, and railway crossings" No. 30 of 18 January 2001 *(Rules for a fare of oversized and overloaded transports)* regulates the conditions and regime of use of such vehicles. It stipulates the need to obtain a permit from the State Automobile Inspectorate, which must be agreed upon with road, utility, railway, and other enterprises and organisations.

The amendments to this resolution propose to approve transport permits on the principle of tacit consent, according to which the carrier submits an application for approval, and if no response is received within a certain period *(e.g., 10 calendar days)*, the approval is presumed and the carrier may apply for a permit.

The draft resolution of the Cabinet of Ministers of Ukraine with a comparative table is attached as Annex 5 to this report.

CHAPTER 6: CONNECTION TO POWER GRIDS

The Transmission System Code, approved by the Resolution of the National Energy and Utilities Regulatory Commission No. 309 dated 14 March 2018 and the Distribution System Code, approved by Resolution of the NEURC No. 310 dated 14 March 2018, inter alia, regulates the connection of electrical facilities to the electricity grid.

The amendments relating to the installed capacity stipulate that the installed capacity of facilities may exceed the ordered capacity *(maximum estimated or projected capacity)*, taking into account the available permitted *(connected)* capacity. It is also clarified that the restriction applies only to producers who do not have an energy storage facility operator's licence.

The NEURC's draft resolution with an explanatory note is attached as Annex 6.1 to this report.

Additionally, the Law of Ukraine "On Electricity Market" dated 13 April 2017 No. 2019-VIII *(Electricity Market Law)* and the Urban Development Law contain provisions on connection to the electricity grid and the validity of technical specifications for such connections.

We propose to amend the Law on Electricity Market and the Law on Urban Development in order

- to establish the opportunity of booking capacity for the construction of new power plants with a capacity of more than 50 MW;
- to extend the validity period of technical specifications for connection of newly constructed facilities (*including power plants)*, taking into account the reasonable time required for their construction.

The draft law with an explanatory note and a comparative table is attached as the Annex 6.2 to this report.

CHAPTER 7: REFORMING THE MARKET PREMIUM MECHANISM

The Law on Electricity Market and the Law of Ukraine "On Alternative Energy Sources" dated 20 February 2003 No. 555-IV *(Alternative Energy Sources Law)*, among other things, contains provisions on the system of incentives for the production of electricity from alternative sources through the market premium mechanism.

The proposed amendments to these laws are aimed at introducing the following changes:

- amendments to Law on Electricity Market and the Law on Alternative Energy Sources to impose obligations to implement the market premium mechanism on SE Guaranteed Buyer and NPC Ukrenergo;
- granting the right to producers of electricity from alternative energy sources to enter into direct contracts for the provision of services under the market premium mechanism with PrJSC NPC Ukrenergo.

The draft law with explanatory note and comparative table is attached as Annex 7 to this report.

CHAPTER 8: METHODOLOGY FOR CALCULATING POWER SYSTEM OPERATING MODES FOR ISSUING TECHNICAL SPECIFICATIONS

The Transmission System Code, among other things, does not provide for the transmission system operator's ability to take into account the situation faced by the energy sector in Ukraine in its activities and does not provide flexibility in decision-making for access to new users of the transmission system due to their absence.

The amendments are aimed at ensuring *(guaranteeing)* the investor the possibility of connecting the RES facility to the power grid according to the scheme agreed by the system operator within the framework of the developed feasibility study.

The NEURC's draft resolution with an explanatory note is attached as Annex 8 to this report.

ANNEX 1
EXPLANATORY NOTE

To the Draft Law of Ukraine "On amending the Law of Ukraine "On Regulation of Urban Planning Activity" on the need to develop and approve a detailed plan of territory and the procedure for determining the maximum permissible height and planning restrictions in the conclusion on the possibility/impossibility of placing the respective object on the land plot"

1. OBJECTIVE

Given the current challenges for the energy system, the draft law aims to accelerate the development of renewable energy sources in Ukraine by removing legal and administrative barriers, simplifying procedures, which will provide clear and comprehensible procedures, reduce costs and project implementation time, and create favourable conditions for investors, stimulating the attraction of capital and modern technologies to the renewable energy sector.

The legislation provides for the transfer *(granting)* of land plots from state or municipal ownership to ownership or use for a number of purposes on the basis of a reasoned conclusion of the authorised urban planning and architecture authority on the possibility of placing a respective object on the land plot, which is considered to be a special type of urban planning conditions and restrictions *(hereinafter – "UPCR")*. At the same time, the conclusion on the maximum height of objects in the aerodrome environs is issued in case of receipt of an application for obtaining the UPCR by the authorised urban planning and architecture authority, and therefore the legislation contains a gap in the procedure for issuing such conclusion in case of a request for the conclusion on the possibility of placing the respective object on the land plot, in which case the construction customer does not need to obtain the UPCR.

2. SUBSTANTIATION FOR ADOPTION OF THE DRAFT ACT

The need to adopt the act is to accelerate the development of renewable energy sources in Ukraine by removing regulatory and administrative barriers that hinder the implementation of projects in this sphere. The problem is in the lengthy process of developing the necessary documentation for the construction of renewable energy objects, which leads to significant delays in the implementation of this process.

The proposed amendments are aimed at simplifying the procedures for obtaining the necessary documents for the implementation of projects in the energy sphere. This includes reducing the timeframe, eliminating legal difficulties, reducing costs and other resources necessary to ensure the efficient and rapid implementation of energy projects, which will contribute to their efficiency and proper implementation. The draft law is developed to eliminate gaps in the legislation on the procedure for obtaining a conclusion on the maximum height of objects in the aerodrome environs in case a conclusion on the possibility of placing the respective object on the land plot is issued.

3. BASIC PROVISIONS OF THE DRAFT ACT

The draft law provides for:

- construction of renewable energy objects without the development of a detailed plan of territory and other documentation required by the legislation of Ukraine for the period of legal regime of martial law and within 5 years from the date of its expiration or cancellation;
- enabling the issuance of conclusions on the maximum height of objects in the aerodrome environs when issuing a conclusion on the possibility of placing a respective object on the land plot as a special type of UPCR.

4. LEGAL ASPECTS

The legal basis for the development of the draft law and other regulatory legal acts in force in the relevant area of social relations are:

- The Constitution of Ukraine
- The Law of Ukraine "On Regulation of Urban Planning Activity"
- The Law of Ukraine "On Energy Lands and Legal Regime of Special Zones of Energy Facilities"
- The Land Code of Ukraine
- The Civil Code of Ukraine
- The Air Code of Ukraine

5. FINANCIAL AND ECONOMIC SUBSTANTIATION

The implementation of the draft law *(if adopted)* will not require additional expenditures from the state or local budgets.

6. POSITION OF INTERESTED PARTIES

The draft law does not address the functioning of local self-government, the rights, and interests of territorial communities, local and regional development, social and labour spheres, the rights of persons with disabilities, the functioning and use of the Ukrainian language as the state language.

The draft law does not address scientific and scientific and technical activities, i.e. it does not require submission to the Scientific Committee of the National Council for Science and Technology Development.

The draft law will be sent to the Ministry of Justice of Ukraine for its legal expertise.

7. CONFORMITY ASSESSMENT

Meanwhile, the draft law does not contain provisions that:

- relate to Ukraine's obligations in the field of European integration;
- relate to the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms;
- affect ensuring equal rights and opportunities for women and men;
- contain risks of corruption offences and offences related to corruption;
- create grounds for discrimination.

The draft law will be sent to the National Agency on Corruption Prevention for anti-corruption expertise.

No public anti-corruption, public anti-discrimination or public gender-legal expertise of the draft law has been conducted.

8. FORECAST OF THE RESULTS

The adoption of the draft law is necessary to accelerate the development of renewable energy sources in Ukraine by removing legal and administrative barriers. The proposed amendments will create clear and comprehensible procedures, reduce costs and project implementation time, and help attract both national and foreign investors, and introduce modern technologies in the renewable energy sphere.

The implementation of the draft law will not have a negative impact on the market environment, protection of the rights and interests of business entities, citizens, and the state; regional development, increase or decrease in the capacity of territorial communities; labour market, employment rate; public health, improvement or deterioration of the health of the population or its separate groups; ecology and environment, the amount of natural resources, the level of air, water and land pollution, including generated waste pollution; other social relations.

DRAFT
LAW OF UKRAINE

“On amending the Law of Ukraine “On Regulation of Urban Planning Activity” on the need to develop and approve a detailed plan of territory and the procedure for determining the maximum permissible height and planning restrictions in the conclusion on the possibility/impossibility of placing the respective object on the land plot”

THE VERKHOVNA RADA OF UKRAINE DECIDES:

I. To amend the Law of Ukraine “On Regulation of Urban Planning Activity” ***(The Official Bulletin of the Verkhovna Rada of Ukraine (OBVRU), 2011, No. 34, p. 343)*** **as follows:**

1) article 19 shall be supplemented with part twelve as follows:
“For the period of the legal regime of martial law and five years after its termination or cancellation, renewable energy objects may be located, constructed, and operated without the need to develop and approve a detailed plan of territory and other urban planning documentation *(master plan, comprehensive spatial development plan of the territory of the territorial community, etc.).”*

2) to add the following sentences to the fortieth paragraph of clause 93 of Section V the “Final Provisions”:
“Prior to the approval of urban planning documentation, taking into account the restrictions on the use of the aerodrome environs established in accordance with the Air Code of Ukraine, the information specified in clauses 4 and 8 of part five of Article 29 of this Law shall be determined in accordance with the procedure established by the Cabinet of Ministers of Ukraine. In this case, the conclusion shall be provided by the authorised urban planning and architecture authority free of charge within 30 calendar days from the date of receipt of the request for its provision.”

II. Final and transitional provisions

1. This Law shall take effect on the day that follows the date of its publication.
2. The Cabinet of Ministers of Ukraine shall within one month following the effective date of this Law align its regulatory acts with the Law.

COMPARATIVE TABLE
to the Draft Law of Ukraine "On amending the Law of Ukraine "On Regulation of Urban Planning Activity" on the need to develop and approve a detailed plan of territory and the procedure for determining the maximum permissible height and planning restrictions in the conclusion on the possibility/impossibility of placing the respective object on the land plot"

CONTENT OF THE PROVISION OF THE LEGISLATIVE ACT	CONTENT OF THE RELEVANT PROVISION OF THE DRAFT ACT
The Law of Ukraine "On Regulation of Urban Planning"	
Article 19. Detailed plan of the territory No provision	Article 19. Detailed plan of the territory 12. For the period of legal regime of martial law and for five years after its termination or cancellation, renewable energy objects may be located, constructed and operated without the need to develop and approve a detailed plan of territory and other urban planning documentation *(master plan, comprehensive spatial development plan of the territory of the territorial community, etc.).*
The Law of Ukraine "On Regulation of Urban Planning"	
9³.During the legal regime of martial law in the respective territory, it is allowed to establish and change the intended purpose of a land plot without observing the rules of correlation between the type of intended purpose of a land plot *(in case of change of the intended purpose of a land plot – between a new type of its intended purpose)* and the type of functional purpose of the territory determined by the relevant urban planning documentation *(except for protected and landscape and recreational areas determined by urban planning documentation at the local level, lands classified as nature reserve fund and other nature protection purposes, lands of historical and cultural purpose, water fund lands (except for the location of river ports (terminals), as well as except for cases when, according to urban planning documentation at the local level, the location of educational, healthcare, cultural, social security, housing and communal services, civil defence, military and other defence facilities, linear objects of engineering and transport and energy infrastructure, engineering infrastructure of reclamation systems)*, for: The conclusion on the possibility of placing the respective object on the land plot shall include, inter alia: • information specified in clauses 1-9 of part five of Article 29 of this Law. If the conclusion is provided in the absence of urban planning documentation at the local level, the information specified in clauses 4-6 of part five of Article 29 of this Law shall be determined taking into account the typology of the surrounding construction.	9³.During the legal regime of martial law in the respective territory, it is allowed to establish and change the intended purpose of a land plot without observing the rules of correlation between the type of intended purpose of a land plot *(in case of change of the intended purpose of a land plot – between a new type of its intended purpose)* and the type of functional purpose of the territory determined by the relevant urban planning documentation (except for protected and landscape and recreational areas determined by urban planning documentation at the local level, lands classified as nature reserve fund and other nature protection purposes, lands of historical and cultural purpose, water fund lands *(except for the location of river ports (terminals), as well as except for cases when, according to urban planning documentation at the local level, the location of educational, healthcare, cultural, social security, housing and communal services, civil defence, military and other defence facilities, linear objects of engineering and transport and energy infrastructure, engineering infrastructure of reclamation systems)*, for: The conclusion on the possibility of placing the respective object on the land plot shall include, inter alia: • information specified in clauses 1-9 of part five of Article 29 of this Law. If the conclusion is provided in the absence of urban planning documentation at the local level, the information specified in clauses 4-6 of part five of Article 29 of this Law shall be determined taking into account the typology of the surrounding construction. Prior to the approval of urban planning documentation, taking into account the restrictions on the use of the aerodrome environs established in accordance with the Air Code of Ukraine, the information specified in clauses 4 and 8 of part five of Article 29 of this Law shall be determined in accordance with the procedure established by the Cabinet of Ministers of Ukraine. In this case, the conclusion shall be provided by the authorised urban planning and architecture authority free of charge within 30 calendar days from the date of receipt of the request for its provision.

ANNEX 2
EXPLANATORY NOTE

to the Draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Establishment of Land Easements and Other Issues”

1. OBJECTIVE

Considering the current challenges for the energy system, the purpose of the draft law is to accelerate the development of renewable energy sources in Ukraine by removing legal and administrative barriers as well as the regulation of the legal status of access roads, which will ensure clear and understandable procedures, reduce costs and project implementation time, and create favourable conditions for investors, stimulating the attraction of capital and modern technologies to the renewable energy sector.

Easements for the construction of access roads to or within an energy facility may be denied due to different interpretations of the legislation in terms of the belonging of access roads to energy facilities and linear energy infrastructure facilities in a broader sense. In addition, practical difficulties arise in the process of granting easements for the construction of access roads to or within the energy facility, as state and municipal land managers have become less inclined to grant easements due to improved regulation of lease issues and mandatory lease payments, which does not always coincide with the real intentions of the parties seeking to use these access roads as public roads, including for local residents.

2. JUSTIFICATION OF THE NEED TO ADOPT AN ACT

The need to adopt the act is to accelerate the development of renewable energy sources in Ukraine by eliminating regulatory and administrative barriers that complicate the implementation of projects in this area.

The problem lies in the lengthy process of developing the necessary documentation for the construction of renewable energy facilities, which leads to significant delays in the implementation of this process. Due to the ambiguities of the Ukrainian legislation on the placement, construction and maintenance of access roads to land plots, wind electric installations *(wind generators)* and foundations under them, energy storage plants as an easement, developers of wind power plants face difficulties in the design of easements, which is necessary for the construction and maintenance of energy facilities. Also, the Ukrainian legislation contains obstacles to the use of land of the water fund for the construction of facilities that produce electricity from renewable energy sources.

The proposed changes are aimed at simplifying the procedures for obtaining the necessary documents for the implementation of projects in the energy sector. This includes reducing deadlines, eliminating legal difficulties, reducing costs and other resources necessary to ensure the effective and rapid implementation of energy projects, which will increase their efficiency and proper implementation.

3. MAIN PROVISIONS OF THE DRAFT ACT

The draft law provides for:

- the possibility of establishing easements for wind power plants *(wind turbines)* and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility;
- the possibility of establishing easements for the construction, placement and operation of wind power plants *(wind turbines)* and foundations for them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility, without changing the designated purpose of these land plots;

- the possibility of using state and communal land plots on the right of easement with payment not exceeding the maximum amount of rent for state or communal land established by law;
- the possibility of applying to a land management organization for the development of documentation without a permit for the development of technical documentation on land management in case of inaction of the competent authority within the established time;
- the possibility of compulsory alienation of privately owned land plots in case of failure to reach agreement on the establishment of an easement;
- eliminating gaps in the regulation of land and underwater plots located in coastal zones and within the sea shelf by defining the intended purpose of the plots, regulating the procedures for issuing permits for construction works "under" and "over" water.

4. LEGAL ASPECTS

The legal basis for the development of the draft law and other regulatory legal acts in force in the relevant area of public relations are:

- The Constitution of Ukraine
- The Law of Ukraine "On Regulation of City Planning Activity"
- The Law of Ukraine "On the Power Engineering Lands and the Legal Status of Special Zones of the Power Engineering Objects"
- The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Improving the Procedure for Providing Administrative Services in the Field of Construction and Establishing the Unified State Electronic System in the Field of Construction";
- The Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Standard Form of the Agreement on Establishment of Land Easement for the Location of Energy Facilities and Electricity Transmission"
- The Land Code of Ukraine
- The Civil Code of Ukraine
- The Water Code of Ukraine

5. FINANCIAL AND ECONOMIC JUSTIFICATION

The implementation of the draft law *(if adopted)* will not require additional expenditures from the state or local budgets.

6. POSITION OF STAKEHOLDERS

The draft law does not concern the functioning of local self-government, the rights and interests of territorial communities, local and regional development, social and labour sphere, the rights of persons with disabilities, the functioning and use of Ukrainian as the state language.

The draft law does not relate to scientific and technical activities, i.e. it does not require submission to the Scientific Committee Council of Ukraine for Science and Technology Development.

The draft law will be sent to the Ministry of Justice of Ukraine for its legal review.

7. CONFORMITY ASSESSMENT

At the same time, the draft law does not contain any provisions that:

- relate to the Ukraine's obligations in the field of European integration;
- relate to the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms;
- affect the equal rights and opportunities for women and men;
- contain risks of corruption and corruption-related offenses;
- create grounds for discrimination.

The draft law will be sent to the National Agency on Corruption Prevention for an anti-corruption expertise.

No civic anti-corruption, civic anti-discrimination, or civic gender expertise of the draft law has been conducted.

8. FORECAST OF RESULTS

The adoption of the draft law is necessary to accelerate the development of renewable energy sources in Ukraine by removing legal and administrative barriers, as well as regulating the legal status of access roads. The proposed amendments will create clear and understandable procedures, reduce costs and project implementation time, and help attract both domestic and foreign investors and introduce modern technologies in the renewable energy sector.

Implementation of the draft law will not have a negative impact on the market environment, protection of the rights and interests of business entities, citizens and the state; regional development, increase or decrease in the capacity of territorial communities; labour market, employment rate; public health, improvement or deterioration of the health of the population or its individual groups; ecology and environment, the amount of natural resources, the level of air, water, land pollution, including waste pollution; other public relations.

DRAFT
THE LAW OF UKRAINE

“On Amendments to Certain Legislative Acts of Ukraine on Establishment of Land Easements and Other Issues”

UNDER THE DOCUMENT, THE VERKHOVNA RADA OF UKRAINE DECIDES:

I. To amend the following legislative acts:

1. In the Land Code of Ukraine *(The Bulletin of the Verkhovna Rada of Ukraine, 2002, No. 3, Art. 27):*

1) Article 59 shall be supplemented by paragraph four with a mark one as follows:

“4[1]. The executive authorities or local self-government bodies may transfer the lands of the water fund to individuals and legal entities for use on the terms of lease, easement, superficies for the construction of alternative energy facilities and electricity generation without holding auctions.”

2) the second paragraph of part four of article sixty shall be amended to read as follows:

“hydraulic, hydrometric, linear structures and alternative energy facilities;”

3) subparagraph “d” of the second part of article sixty-one shall be amended to read as follows:

“d) construction of any structures *(except for hydraulic, navigation, hydrometric, linear, alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications)*, including recreation centres, cottages, garages and parking lots;

4) part three of article sixty-two shall be set forth in the following wording:

“3. Within the beach area of shoreline protection belts, the construction of any structures, except for hydraulic, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications shall be prohibited.

5) in Article 82. Ownership of land by legal entities:

- after part two, add part three as follows:

  “3. Legal entities established in accordance with the legislation of Ukraine, whose participants *(shareholders, members)* are citizens of Ukraine and/or legal entities of Ukraine and/or foreign legal entities and/or citizens of other states and/or the state and/or territorial communities may acquire ownership of land plots within and/or outside settlements in cases specified in part one of Article 82 and in accordance with the procedure established by the Land Code of Ukraine for legal entities established by citizens of Ukraine or legal entities of Ukraine, except for agricultural land plots.

  In this regard, part three shall be considered part four.

6) in Article 98:

- part one shall be supplemented with the second paragraph as follows:

  “In case of establishment of a paid land easement, the amount, conditions and terms of payment of land payment for establishment of a land easement *(payment for land easement)* shall be established by consent of the parties in the agreement on establishment of a land easement. The land payment for the establishment of a land easement *(payment for land easement)* for state-owned and communal land plots may not exceed the maximum amount of rent for state-owned or communal land established by law.”

7) in Article 99:

- paragraph в-4 of the first part after the words: “other linear communications” shall be supplemented with the words and signs: “, including access roads to or within the energy facility, wind electric installations *(wind generators)* and foundations under them, energy storage facilities”.

2. In the Law of Ukraine “On Energy Lands and the Legal Regime of Special Zones of Energy Facilities” *(Bulletin of the Verkhovna Rada of Ukraine, 2011, No. 1, p. 1; 2021, No. 44, p. 354):*

1) in Article 14:

- “part one after the words “for energy needs, including for” shall be supplemented with the words and signs “construction of wind electric installations *(wind generators)* and foundations under them, energy storage facilities” and after the words “linear energy infrastructure facilities,” shall be supplemented with the words and signs “including access roads to or within the energy facility,”;
- the first sentence of part two shall be amended to read as follows:

  “Wind electric installations *(wind generators)* and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility, shall be located on land plots of all categories of land without changing their designated purpose;”

- part three after the words "For construction, placement and operation of" shall be supplemented with the words and signs "wind electric installations *(wind generators)* and foundations under them, energy storage facilities" and after the words "linear energy infrastructure facilities" shall be supplemented with the words and signs ", including access roads to or within the energy facility,";

2) in Article 16:

- part one shall be amended to read as follows:
  "Enterprises constructing or operating energy and electricity transmission facilities shall have the right to use land plots under an agreement on establishment of a land easements with the owner *(manager)* or user of the land plot or by a court decision for the placement of facilities referred to in parts two and four of this Article on the right of permanent or fixed-term land easements."
- part two after the words "transformer substations," shall be supplemented with the words and signs "wind electric installations *(wind generators)* and foundations under them, energy storage facilities";
- part four shall be set forth in the following wording:
  "Permanent or fixed-term land easements shall be established for:
- construction, reconstruction, overhaul, placement, operation and maintenance of wind power plants *(wind turbines)* and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility;
- passage, driveway, as well as transportation of construction and other materials through the land plot for the construction, operation and maintenance of wind electric installations *(wind generators)* and foundations under them, energy storage facilities of linear energy infrastructure facilities, including access roads to or within the energy facility;
- placement on the land plot of information boards, warning signs related to the construction, operation and maintenance of wind electric installations *(wind generators)* and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility;
- conducting survey, research and other works for the construction of wind electric installations (wind generators) and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility.";
- after part eight, add a new part as follows:
  "If, within 45 days from the date of registration of the application for permission to develop technical land management documentation to establish the boundaries of the part of the land plot subject to the easement right, the relevant executive authority or local self-government body has not granted such permission or has refused to grant it with a reasoned refusal, the person who submitted the relevant application, from the day after the expiration of the specified period, has the right to apply to the land management organisation for the development of technical documentation without permission, and shall notify the respective executive authority or local self-government body on thereof;"
  In this regard, parts nine to seventeen shall be considered parts ten to eighteen respectively;
- part ten after the words "establishment of a land easement" shall be supplemented with the words and signs "on a privately owned land plot, such".

3. To introduce the following amendments to the Water Code of Ukraine *(The Official Bulletin of the Verkhovna Rada, 1995, No. 24, Article 189):*

1) in article forty-eight, supplement the part "Special water use does not involve:" with the following paragraph:
"Production of electric energy by alternative energy facilities in accordance with the procedure determined by the legislation."

2) the seventh paragraph of article eighty shall be set forth in the following wording:
"7) render land plots in floodplains for any construction (*except for hydraulic, hydrometric and linear structures and alternative energy facilities),* as well as for horticulture and gardening;"

3) Article eighty-five shall be supplemented with the following paragraph:
"Water fund lands may be provided for use on the terms of lease, easement, superficies to individuals and legal entities for the construction of alternative energy facilities and electricity generation without holding auctions."

4) the first paragraph of article eighty-six shall be amended to read as follows:
"The works related to the construction of hydraulic, linear and hydrometric structures, alternative energy facilities, engineering and fortification structures, fences, border signs, border clearings, communications, deepening of the bottom for navigation, mining *(except sand, pebbles and gravel in riverbeds and small mountain rivers),* clearing riverbeds, canals and the bottom of reservoirs, laying cables, pipelines, other communications, as well as drilling and exploration works may be performed on water fund lands."

5) the second paragraph of article eighty-six shall be amended to read as follows:

"The places and the procedure for these works shall be determined in accordance with the projects agreed with oblast, Kyiv, Sevastopol city state administrations, the executive authority of the Autonomous Republic of Crimea for environmental protection, the central executive authority implementing the state policy in the field of water management *(except for the works on lands occupied by the seas, as well as the works related to the construction, arrangement and maintenance of engineering and fortification structures, fences, border signs, border clearings, communications as well as alternative energy facilities),* and the central executive authority implementing the state policy in the field of geological study and the rational use of subsoil."

6) paragraph nineteen of article eighty-eight shall be amended as follows:

"Hydraulic, hydrometric, linear structures and alternative energy facilities;"

7) paragraph six of article eighty-nine shall read as follows:

"4) construction of any structures *(except for hydraulic, navigation, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications),* including recreation centres, cottages, garages and parking lots;"

8) eighth paragraph of the article ninety shall be set forth in the following wording:

"The construction of any structures within the beach zone of protective belts, except for hydraulic, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications are prohibited."

II. Final and transitional provisions

1. This Law shall enter into force on the day following the day of its publication.

COMPARATIVE TABLE
to the Draft Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Establishment of Land Easements and Other Issues"

CONTENT OF A PROVISION OF A LEGISLATIVE ACT	CONTENT OF THE RELEVANT PROVISION OF THE DRAFT LAW
The Land Code of Ukraine	
Article 59. The right to water fund lands No provision	**Article 59. The right to water fund lands** 4[1]. For individuals and legal entities, executive authorities or local self-government bodies from the lands of the water fund may be transferred for use on the terms of lease, easement, superficies of the land of the water fund for the construction of alternative energy facilities and the production of electricity without auctions.
Article 60. Shoreline protection belts 4. Within the shoreline protection belts, the citizens shall be provided with unimpeded and free access to the marine coasts, marine bays, estuaries and islands in the internal marine waters within the beach area, to the banks of rivers, water bodies and islands for general water use, except for the lands of protection zones, sanitary protection zones, controlled access zones and zones of special regime of land use, as well as land plots comprising the following:	**Article 60. Shoreline protection belts** 4. Within the shoreline protection belts, the citizens shall be provided with unimpeded and free access to the marine coasts, marine bays, estuaries and islands in the internal marine waters within the beach area, to the banks of rivers, water bodies and islands for general water use, except for the lands of protection zones, sanitary protection zones, controlled access zones and zones of special regime of land use, as well as land plots comprising the following: • hydraulic, hydrometric, linear structures and alternative energy facilities;
Article 61. Restraints on the use of land plots of shoreline protection belts along rivers, around water bodies and on islands 2. Within the shoreline protection belts along rivers, around water bodies and on islands the following shall be prohibited: d) erection of any structures *(except for hydraulic, navigation, hydrometric and linear, as well as engineering and fortification structures, fences, border signs, border clearings, communications)*, including recreation centres, cottages, garages and parking lots;	**Article 61. Restraints on the use of land plots of shoreline protection belts along rivers, around water bodies and on islands** 2. Within the shoreline protection belts along rivers, around water bodies and on islands the following shall be prohibited: d) erection of any structures *(except for hydraulic, navigation, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications)*, including recreation centres, cottages, garages and parking lots;
Article 62. Restraints on the use of land plots within the shoreline protection belts along seas, marine bays and estuaries and on islands in the internal marine waters 3. Within the beach area of shoreline protection belts, the construction of any structures, except for hydraulic, hydrometric and linear, as well as engineering and fortification structures, fences, border signs, border clearings, communications shall be prohibited.	**Article 62. Restraints on the use of land plots within the shoreline protection belts along seas, marine bays and estuaries and on islands in the internal marine waters** 3. Within the beach area of shoreline protection belts, the construction of any structures, except for hydraulic, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications shall be prohibited.
Article 82. Land ownership by legal entities 1. Legal entities *(founded by citizens of Ukraine or legal entities of Ukraine)* may acquire land plots for commercial activities in case of: a) acquisition under a sale and purchase agreement, rent, gift, exchange, or other civil law transactions; b) contribution of land plots by its founders to the charter capital; c) inheritance; d) other grounds provided by law.	**Article 82. Land ownership by legal entities** 1. Legal entities *(founded by citizens of Ukraine or legal entities of Ukraine)* may acquire land plots for commercial activities in case of: a) acquisition under a sale and purchase agreement, rent, gift, exchange, or other civil law transactions; b) contribution of land plots by its founders to the charter capital; c) inheritance; d) other grounds provided by law.

2. Legal entities established and registered in accordance with the laws of a foreign country may acquire ownership of non-agricultural land plots: a) within residential areas in case of acquisition of real estate and for the construction of facilities related to business activities in Ukraine; b) outside residential areas in case of acquisition of real estate objects. 3. Agricultural land plots inherited by legal entities, which in accordance with this Code cannot acquire their ownership, are subject to alienation within one year.	2. Legal entities established and registered in accordance with the laws of a foreign country may acquire ownership of non-agricultural land plots: a) within residential areas in case of acquisition of real estate and for the construction of facilities related to business activities in Ukraine; b) outside residential areas in case of acquisition of real estate objects. 3. Legal entities established in accordance with the legislation of Ukraine, whose participants *(shareholders, members)* are citizens of Ukraine and/or legal entities of Ukraine and/or foreign legal entities and/or citizens of other states and/or the state and/or territorial communities may acquire ownership of land plots within and/or outside settlements in cases specified in part one of Article 82 and in accordance with the procedure established by the Land Code of Ukraine for legal entities established by citizens of Ukraine or legal entities of Ukraine, except for agricultural land plots. 4. Agricultural land plots inherited by legal entities, which in accordance with this Code cannot acquire their ownership, are subject to alienation within one year.
Article 98. Scope of the right of land easement 1. The right of land easement is the right of the owner or land user of a land plot or other interested person to limited paid or free use of another's land plot *(plots).*	**Article 98. Scope of the right of land easement** 1. The right of land easement is the right of the owner or land user of a land plot or other interested person to limited paid or free use of another's land plot *(plots).* In case of establishment of a paid land easement, the amount, conditions and terms of payment of land payment for establishment of a land easement *(payment for land easement)* shall be established by consent of the parties in the agreement on establishment of a land easement. The land payment for the establishment of a land easement *(payment for land easement)* for state-owned and communal land plots may not exceed the maximum amount of rent for state-owned or communal land established by law.
Article 99. Types of land easement rights Owners or land users of land plots or other interested persons may request the establishment of the following land easements: a) the right of passage and cycling; b) the right to drive a vehicle along an existing path; c) the right to place temporary structures *(small architectural forms);* c^1) the right to construct and place oil and gas production facilities; c^2) the right to place pipeline transport facilities; c^3) the right to use a land plot for the purposes of geological exploration, including pilot industrial development, of minerals with subsequent extraction of minerals *(industrial development of deposits)* of national and local importance and/or for extraction of minerals of national and local importance with the right to construct and place structures/facilities related to the said type of activity, provided that the rights of the landowner provided for in Article 98 of this Code are not violated;	**Article 99. Types of land easement rights** Owners or land users of land plots or other interested persons may request the establishment of the following land easements: a) the right of passage and cycling; b) the right to drive a vehicle along an existing path; c) the right to place temporary structures *(small architectural forms);* c^1) the right to construct and place oil and gas production facilities; c^2) the right to place pipeline transport facilities; c^3) the right to use a land plot for the purposes of geological exploration, including pilot industrial development, of minerals with subsequent extraction of minerals *(industrial development of deposits)* of national and local importance and/or for extraction of minerals of national and local importance with the right to construct and place structures/facilities related to the said type of activity, provided that the rights of the landowner provided for in Article 98 of this Code are not violated;

c[4]) the right to lay and operate power transmission lines, electronic communication networks, pipelines and other linear communications;	c[4]) the right to lay and operate power transmission lines, electronic communication networks, pipelines and other linear communications, including access roads to or within the energy facility, wind electric installations *(wind generators)* and foundations under them, energy storage facilities;
The Law of Ukraine "On Energy Lands and the Legal Regime of Special Zones of Energy Facilities"	
Article 14. The Procedure for Provision and Use of Land Plots for Energy Facilities State-owned and communal land plots shall be provided for ownership and use *(including lease or use on the terms of easement)* for energy needs, including for construction, placement and operation of linear energy infrastructure facilities, by decision of executive authorities or local self-government bodies in accordance with their powers and in accordance with the procedure established by the Land Code of Ukraine, taking into account the peculiarities determined by this Law. Linear energy infrastructure facilities shall be located on land plots of all categories of land without changing their designated purpose. Alternative energy facilities that use renewable energy sources *(solar, wind, aerothermal, geothermal, hydrothermal, wave and tidal energy, hydropower, biomass energy, gas from organic waste, gas from sewage treatment plants, biogas)* may be located on the land classified as land specified in clause *(g)* of part one of Article 19 of the Land Code of Ukraine, regardless of the designated purpose of such land plots. For the construction, placement and operation of linear energy infrastructure facilities, land plots of all forms of ownership, under an agreement with the owner or user of the land plot, may also be used by establishing permanent or fixed-term land easement without changing the designated purpose of these land plots.	**Article 14. The Procedure for Provision and Use of Land Plots for Energy Facilities** State-owned and communal land plots shall be provided for ownership and use *(including lease or use on the terms of easement)* for energy needs, including for construction of wind electric installations *(wind generators)* and foundations under them, energy storage facilities construction, placement and operation of linear energy infrastructure facilities, including access roads to or within the energy facility, by decision of executive authorities or local self-government bodies in accordance with their powers and in accordance with the procedure established by the Land Code of Ukraine, taking into account the peculiarities determined by this Law. Wind electric installations *(wind generators)* and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility, shall be located on land plots of all categories of land without changing their designated purpose. Alternative energy facilities that use renewable energy sources *(solar, wind, aerothermal, geothermal, hydrothermal, wave and tidal energy, hydropower, biomass energy, gas from organic waste, gas from sewage treatment plants, biogas)* may be located on the land classified as land specified in clause *(g)* of part one of Article 19 of the Land Code of Ukraine, regardless of the designated purpose of such land plots. For the construction, placement and operation of wind electric installations *(wind generators)* and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility, land plots of all forms of ownership, under an agreement with the owner or user of the land plot, may also be used by establishing permanent or fixed-term land easement without changing the designated purpose of these land plots.
Article 16. Establishment of land easements for the location of energy and electricity transmission facilities Enterprises constructing or operating energy and electricity transmission facilities shall have the right to use land plots under an agreement on establishment of a land easements with the owner or user of the land plot or by a court decision for the placement of facilities referred to in parts two and four of this Article on the right of permanent or fixed-term land easements. Permanent land easements may be established for the placement of support structures for overhead power lines, transformer substations, distribution points, devices and structures.	**Article 16. Establishment of land easements for the location of energy and electricity transmission facilities** Enterprises constructing or operating energy and electricity transmission facilities shall have the right to use land plots under an agreement on establishment of a land easements with the owner *(manager)* or user of the land plot or by a court decision for the placement of facilities referred to in parts two and four of this Article on the right of permanent or fixed-term land easements. Permanent land easements may be established for the placement of support structures for overhead power lines, transformer substations, wind electric installations (wind generators) and foundations under them, energy storage facilities, distribution points, devices and structures.

<table>
<tr><td>Permanent or fixed-term land easements may be established for:
• construction, reconstruction, overhaul, location of operation of linear energy infrastructure facilities;
• passage, driveway, as well as transportation of construction and other materials through the land plot for the construction and operation of linear energy infrastructure facilities;
• placement of information boards and warning signs on the land plot related to the construction and operation of linear energy infrastructure facilities;
• conducting survey, research and other works for the construction of linear energy infrastructure facilities.
• the relevant provision is absent

If no agreement is reached on the establishment of a land easement, the land plot may be alienated in accordance with the procedure established by the Law of Ukraine “On Alienation of Privately Owned Land Plots and Other Real Estate Located Thereon for Public Needs or for Reasons of Public Importance.</td><td>Permanent or fixed-term land easements shall be established for:
• construction, reconstruction, overhaul, placement, operation and maintenance of wind power plants (wind turbines) and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility;
• passage, driveway, as well as transportation of construction and other materials through the land plot for the construction, operation and maintenance of wind electric installations (wind generators) and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility;
• placement on the land plot of information boards, warning signs related to the construction, operation and maintenance of wind electric installations (wind generators) and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility;
• conducting survey, research and other works for the construction of wind electric installations (wind generators) and foundations under them, energy storage facilities, linear energy infrastructure facilities, including access roads to or within the energy facility.

If, within 45 days from the date of registration of the application for permission to develop technical land management documentation to establish the boundaries of the part of the land plot subject to the easement right, the relevant executive authority or local self-government body has not granted such permission or has refused to grant it with a reasoned refusal, the person who submitted the relevant application, from the day after the expiration of the specified period, has the right to apply to the land management organisation for the development of technical documentation without permission, and shall notify the respective executive authority or local self-government body on thereof;

If no agreement is reached on the establishment of a land easement on a privately owned land plot, such the land plot may be alienated in accordance with the procedure established by the Law of Ukraine “On Alienation of Privately Owned Land Plots and Other Real Estate Located Thereon for Public Needs or for Reasons of Public Importance”.</td></tr>
<tr><td colspan="2">The Water Code of Ukraine</td></tr>
<tr><td>Article 48. Special water use
No provision</td><td>Article 48. Special water use
Not related to special water use:

Production of electric energy by alternative energy facilities in the manner determined by law.</td></tr>
</table>

Article 80. Peculiarities of using small rivers In order to protect the water content of small rivers, it is prohibited to: 7) provide land in floodplains for any construction *(except for hydraulic, hydrometric and linear structures),* as well as for gardening and gardening;	**Article 80. Peculiarities of using small rivers** In order to protect the water content of small rivers, it is prohibited to: 7) provide land in floodplains for any construction *(except for hydraulic, hydrometric, linear structures and alternative energy facilities),* as well as for gardening and gardening;
Article 85. Use of water fund lands No provision	**Article 85. Use of water fund lands** Water fund lands may be provided to individuals and legal entities for use on the terms of lease, easement, superficies for the construction of alternative energy facilities and electricity generation without holding auctions.
Article 86. Carrying out works on the lands of the water fund The works related to the construction of hydraulic, linear and hydrometric structures, engineering and fortification structures, fences, border signs, border clearings, communications, deepening of the bottom for navigation, mining *(except sand, pebbles and gravel in riverbeds and small mountain rivers),* clearing riverbeds, canals and the bottom of reservoirs, laying cables, pipelines, other communications, as well as drilling and exploration works may be performed on water fund lands. The places and the procedure for these works shall be determined in accordance with the projects agreed with oblast, Kyiv, Sevastopol city state administrations, the executive authority of the Autonomous Republic of Crimea for environmental protection, the central executive authority implementing the state policy in the field of water management *(except for the works on lands occupied by the seas, as well as the works related to the construction, arrangement and maintenance of engineering and fortification structures, fences, border signs, border clearings, communications),* and the central executive authority implementing the state policy in the field of geological study and the rational use of subsoil. The locations and procedure for operational dredging are determined in accordance with the passports of hydraulic structures and/or the road works plan and do not require a permit to carry out work on water fund lands.	**Article 86. Carrying out works on the lands of the water fund** The works related to the construction of hydraulic, linear and hydrometric structures and alternative energy facilities, engineering and fortification structures, fences, border signs, border clearings, communications, deepening of the bottom for navigation, mining *(except sand, pebbles and gravel in riverbeds and small mountain rivers),* clearing riverbeds, canals and the bottom of reservoirs, laying cables, pipelines, other communications, as well as drilling and exploration works may be performed on water fund lands. The places and the procedure for these works shall be determined in accordance with the projects agreed with oblast, Kyiv, Sevastopol city state administrations, the executive authority of the Autonomous Republic of Crimea for environmental protection, the central executive authority implementing the state policy in the field of water management *(except for the works on lands occupied by the seas, as well as the works related to the construction, arrangement and maintenance of engineering and fortification structures, fences, border signs, border clearings, communications and alternative energy facilities),* and the central executive authority implementing the state policy in the field of geological study and the rational use of subsoil. The locations and procedure for operational dredging are determined in accordance with the passports of hydraulic structures and/or the road works plan and do not require a permit to carry out work on water fund lands.
Article 88. Protective belts Citizens shall be provided with unimpeded and free access to the coast of the seas, bays, estuaries and islands in inland waters within the beach area, to the banks of rivers, reservoirs and islands for general water use, except for protected areas, sanitary protection zones, control access zones and zones of special land use regime, as well as the land plots on which there are: • hydraulic, hydrometric and linear structures;	**Article 88. Protective belts** Citizens shall be provided with unimpeded and free access to the coast of the seas, bays, estuaries and islands in inland waters within the beach area, to the banks of rivers, reservoirs and islands for general water use, except for protected areas, sanitary protection zones, control access zones and zones of special land use regime, as well as the land plots on which there are: • hydraulic, hydrometric, linear structures and alternative energy facilities;

Article 89. The restrictions of economic activity in coastal protective belts along rivers, around water bodies and on islands In protective belts along rivers, around water bodies and on islands the following is prohibited: 4) construction of any structures *(except for hydraulic, navigation, hydrometric and linear, as well as engineering and fortification structures, fences, border signs, border clearings, communications),* including recreation centres, cottages, garages and parking lots;	**Article 89. The restrictions of economic activity in coastal protective belts along rivers, around water bodies and on islands** In protective belts along rivers, around water bodies and on islands the following is prohibited: 4) construction of any structures *(except for hydraulic, navigation, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications),* including recreation centres, cottages, garages and parking lots;
Article 90. The restriction of economic activities in coastal protective belts along seas, bays and estuaries as well as on islands in inland waters The construction of any structures within the beach zone of protective belts, except for hydraulic, hydrometric and linear, as well as engineering and fortification structures, fences, border signs, border clearings, communications is prohibited.	**Article 90. The restriction of economic activities in coastal protective belts along seas, bays and estuaries as well as on islands in inland waters** The construction of any structures within the beach zone of protective belts, except for hydraulic, hydrometric, linear and alternative energy facilities, as well as engineering and fortification structures, fences, border signs, border clearings, communications is prohibited.

ANNEX 3
EXPLANATORY NOTE

to the Draft Law of Ukraine "On Amendments to the Law of Ukraine "On Environmental Impact Assessment"

1. OBJECTIVE

Considering the current challenges for the energy system, the purpose of the draft law is to accelerate the development of renewable energy sources in Ukraine by removing legal and administrative barriers, simplifying environmental impact assessment and strategic environmental assessment procedures, which will ensure clear and understandable procedures, reduce costs and project implementation time, and create favourable conditions for investors, stimulating the attraction of capital and modern technologies to the renewable energy sector.

2. JUSTIFICATION OF THE NEED TO ADOPT AN ACT

The need to adopt the act is to accelerate the development of renewable energy sources in Ukraine by eliminating regulatory and administrative barriers that complicate the implementation of projects in this sector.

The problem lies in the lengthy process of developing the necessary documentation for the construction of renewable energy facilities, which leads to significant delays in the implementation of this process. Wind power plant developers face unreasonably complex procedures for environmental impact assessment, strategic environmental assessment and re-evaluation of environmental impact assessment for projects that have already undergone an initial assessment, which requires significant time, financial and other resources, and leads to significant delays.

The proposed changes are aimed at simplifying the procedures for obtaining the necessary documents for the implementation of projects in the energy sector. This includes reducing deadlines, eliminating legal difficulties, reducing costs and other resources necessary to ensure the effective and rapid implementation of energy projects, which will increase their efficiency and proper implementation.

The draft law proposes to allow the change of the designated purpose of agricultural land and especially valuable land for the period of martial law and 5 years after its termination or cancellation *(if the new purpose relates to at least one type of activity included in the first or second category of planned activities and objects that may have a significant impact on the environment)* without conducting environmental impact assessment procedures, provided that such a change is made for the further use of the relevant land plots for the construction of wind power generation facilities.

The provision of the fourth paragraph of clause 2 of part three of Article 3 of the Law of Ukraine "On Environmental Impact Assessment", which is proposed not to be applied during the period of martial law and within 5 years after its termination or cancellation, actually requires an environmental impact assessment to be carried out twice for the same activity – first, when the designated purpose of the land to be used in such activity is changed, and then immediately before the commencement of the relevant activity. It is clear that the environmental impact assessment in case of change of designated purpose of agricultural land and especially valuable land is directly related to a specific type of planned activity, but when changing the designated purpose, the person intending to carry out such activity does not have complete information on the configuration, scope and other parameters of the planned activity to be carried out after the change of designated purpose, which, firstly, makes it impossible to take into account all aspects of future planned activity when conducting an environmental impact assessment in case of changing the designated purpose of agricultural land and especially valuable land, and second, it makes it impossible to prepare a unified environmental impact assessment report for both the change of designated purpose and the planned activities themselves. As a result, bona fide customers are forced to spend time and resources on environmental impact assessments twice for essentially the same type of activity, while unscrupulous customers may in many cases avoid indicating that the change of purpose is carried out for activities that fall into the first or second category of planned activities.

In addition, it is worth noting that in accordance with the current legislation, when changing the designated purpose of land plots, the category of land and the type of designated purpose of the land plot are determined within the relevant type of functional purpose of the territory provided for in the approved comprehensive plan for the spatial development of the territory of the territorial community or the master plan of the settlement. In some cases, the designated purpose may be changed based on detailed plans of the territory. In any of these cases, when developing a specific type of urban planning documentation, a strategic environmental assessment is carried out in accordance with the Law of Ukraine "On Strategic Environmental Assessment" and the Law of Ukraine "On Regulation of Urban Development Activities". At the same time, the content of the strategic environmental assessment requires an analysis of the possible consequences *(positive and negative)* of the implementation of urban planning documentation for the environment, including public health. In this regard, the exclusion of the requirement to carry out an environmental impact assessment when changing the designated purpose of agricultural land or especially valuable land *(if the new designation relates to at least one type of activity included in the first or second category of planned activities and objects that may have a significant impact on the environment)* will not create a situation where planning for such changes in designated purpose will take place without an analysis of the relevant environmental impacts.

The draft law also provides for the possibility of implementing simplifications in the process of carrying out the environmental impact assessment procedure. Currently, due to the European integration process and the ongoing war, Ukraine is already in the process of negotiating with the European Union on the possibility of not applying the strategic assessment and environmental impact assessment procedures for reconstruction projects. Considering the current state of Ukraine's energy system, it is also reasonable to consider simplifying the environmental impact assessment procedure for wind energy projects that are just starting in Ukraine.

3. MAIN PROVISIONS OF THE DRAFT ACT

The draft law provides for:

- extending the term of the environmental impact assessment conclusion and the possibility of obtaining permits based on it;
- defining changes in the parameters of wind power plants as activities exempt from re-evaluation of environmental impact assessment during martial law if they meet the Criteria approved by the Cabinet of Ministers of Ukraine;
- for the period of martial law and 5 years after its termination or cancellation to allow the change of the designated purpose of agricultural land and especially valuable land *(if the new purpose relates to at least one type of activity included in the first or second category of planned activities and objects that may have a significant impact on the environment)* without conducting environmental impact assessment procedures, provided that such a change is made for the further use of the relevant land plots for the construction of wind power generation facilities;
- exemption from re-evaluation of the environmental impact assessment if the changes made to the parameters of the activity, including wind power plants, do not have a significant impact on the environment in accordance with the Criteria approved by the Cabinet of Ministers of Ukraine.

4. LEGAL ASPECTS

The legal basis for the development of the draft law and other regulatory legal acts in force in the relevant area of public relations are:

- The Constitution of Ukraine
- The Law of Ukraine "On Regulation of Urban Development"
- The Law of Ukraine "On Environmental Impact Assessment"
- The Law of Ukraine "On Strategic Environmental Assessment"
- The Resolution of the Cabinet of Ministers of Ukraine "On Approval of Criteria for Determining Planned Activities that are Not Subject to Environmental Impact Assessment and Criteria for Determining Expansions and Changes in Activities and Facilities that are Not Subject to Environmental Impact Assessment"
- The Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Conducting Expert Examination of Urban Planning Documentation"
- The Order of the Ministry of Environmental Protection and Natural Resources of Ukraine "On Approval of the General Methodological Recommendations on the Content and Procedure for Preparation of Environmental Impact Assessment Reports"

5. FINANCIAL AND ECONOMIC JUSTIFICATION

The implementation of the draft law *(if adopted)* will not require additional expenditures from the state or local budgets.

6. POSITION OF STAKEHOLDERS

The draft law does not concern the functioning of local self-government, the rights and interests of territorial communities, local and regional development, social and labour sphere, the rights of persons with disabilities, the functioning and use of Ukrainian as the state language.

The draft law does not relate to scientific and technical activities, i.e. it does not require submission to The Scientific Committee Council of Ukraine for Science and Technology Development.

The draft law will be sent to the Ministry of Justice of Ukraine for its legal review.

7. CONFORMITY ASSESSMENT

At the same time, the draft law does not contain any provisions that:

- relate to Ukraine's obligations in the field of European integration;
- relate to the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms;
- affect the equal rights and opportunities for women and men;
- contain risks of corruption and corruption-related offenses;
- create grounds for discrimination.

The draft law will be sent to the National Agency on Corruption Prevention for an anti-corruption expertise.

No civic anti-corruption, civic anti-discrimination, or civic gender expertise of the draft law has been conducted.

8. FORECAST OF RESULTS

The adoption of the draft law is necessary to accelerate the development of renewable energy sources in Ukraine by removing legal and administrative barriers, simplifying environmental impact assessment and strategic environmental assessment procedures. The proposed amendments will create clear and understandable procedures, reduce costs and project implementation time, and help attract both domestic and foreign investors and introduce modern technologies in the renewable energy sector.

Implementation of the draft law will not have a negative impact on the market environment, protection of the rights and interests of business entities, citizens and the state; regional development, increase or decrease in the capacity of territorial communities; labour market, employment rate; public health, improvement or deterioration of the health of the population or its individual groups; ecology and environment, the amount of natural resources, the level of air, water, land pollution, including waste pollution; other public relations.

DRAFT
THE LAW OF UKRAINE

to the Draft Law of Ukraine "On Amendments to the Law of Ukraine "On Environmental Impact Assessment"

UNDER THE DOCUMENT, THE VERKHOVNA RADA OF UKRAINE DECIDES:

I. To amend the Law of Ukraine "On Environmental Impact Assessment" ***(Bulletin of the Verkhovna Rada (BVR), 2017, No. 29, p.315)*** **as follows:**

1) after the second paragraph of the first part of Article 3, add new paragraphs three and four as follows:

"During the period of martial law, changes in the parameters of wind power plants are exempt from re-evaluation of the environmental impact assessment if they meet the criteria approved by the Cabinet of Ministers of Ukraine";

"During the period of martial law and within five years from the date of its termination or cancellation in Ukraine or in a certain area, the change of the designated purpose of agricultural land (if the new designation relates to at least one type of activity specified in parts two and three of this Article) and the change of the designated purpose of especially valuable land, if the change of such designated purpose is for the use of land plots for the construction of wind parks, wind power plants, and wind turbines with two or more turbines or a height of 50 meters or more, shall not be subject to environmental impact assessment";

2) in Article 9:

- to supplement part nine with paragraphs two and three respectively:
  "The requirement to re-evaluate the environmental impact assessment does not apply to changes in the parameters of activities, including wind power plants, which do not have a significant impact on the environment in accordance with the criteria approved by the Cabinet of Ministers of Ukraine.
  During the period of martial law and within five years from the date of its termination or cancellation, the environmental impact assessment conclusion expires after 10 years if no decision has been made to carry out the planned activity.";
- to supplement part ten after the first paragraph with paragraphs two and three as follows:
  "During the period of martial law and within five years from the date of its termination or cancellation, the conclusion on environmental impact assessment and other results of environmental impact assessment within 10 years from the date of the decision to carry out the planned activity may be used to obtain other permits in accordance with the law, provided that they do not provide for the establishment (approval) of changes in the activity approved by the decision to carry out the planned activity or extension of the terms.

The provision provided for in the second paragraph of part ten of this Article remains in force within five years from the date of termination or cancellation of martial law in Ukraine or in the certain area."

II. Final and transitional provisions

1. This Law shall enter into force on the day following the day of its publication.

COMPARATIVE TABLE
to the Draft Law of Ukraine "On Amendments to the Law of Ukraine "On Environmental Impact Assessment"

CONTENT OF A PROVISION OF A LEGISLATIVE ACT	CONTENT OF THE RELEVANT PROVISION OF THE DRAFT LAW
The Law of Ukraine "On Environmental Impact Assessment"	
Article 3. Scope of environmental impact assessment 1. Environmental impact assessment shall be mandatory in the process of decision-making on carrying out the planned activity specified in parts two and three of this Article. Such planned activity shall be subject to environmental impact assessment prior to making a decision on carrying out the planned activity. Activities not specifically provided for in parts two and three of this Article, as well as planned activities aimed exclusively at ensuring the defence of the state, elimination of the consequences of emergencies, restoration work to eliminate the consequences of armed aggression against Ukraine during martial law, in accordance with the criteria approved by the Cabinet of Ministers of Ukraine, change of designated purpose of especially valuable lands and other activities related to the placement of the National Military Memorial Cemetery, shall not be subject to environmental impact assessment.	**Article 3. Scope of environmental impact assessment** 1. Environmental impact assessment shall be mandatory in the process of decision-making on carrying out the planned activity specified in parts two and three of this Article. Such planned activity shall be subject to environmental impact assessment prior to making a decision on carrying out the planned activity. Activities not specifically provided for in parts two and three of this Article, as well as planned activities aimed exclusively at ensuring the defence of the state, elimination of the consequences of emergencies, restoration work to eliminate the consequences of armed aggression against Ukraine during martial law, in accordance with the criteria approved by the Cabinet of Ministers of Ukraine, change of designated purpose of especially valuable lands and other activities related to the placement of the National Military Memorial Cemetery, shall not be subject to environmental impact assessment. During the period of martial law, changes in the parameters of wind power plants are exempt from re-evaluation of the environmental impact assessment if they meet the criteria approved by the Cabinet of Ministers of Ukraine. During the period of martial law and within five years from the date of its termination or cancellation in Ukraine or in the certain area, the change of the designated purpose of agricultural land *(if the new designation relates to at least one type of activity specified in parts two and three of this Article)* and the change of the designated purpose of especially valuable land, if the change of such designated purpose is for the use of land plots for the construction of wind parks, wind power plants, and wind turbines with two or more turbines or a height of 50 meters or more, shall not be subject to environmental impact assessment.

Article 9. The environment impact assessment conclusion 9. The conclusion on environmental impact assessment shall expire in five years if no decision on carrying out the planned activity has been made. If, prior to the receipt of a decision on the implementation of the planned activity, changes are made to the project documentation or changes are made to the legislation that require changes in the environmental conditions defined in the environmental impact assessment conclusion, the environmental impact assessment shall be carried out repeatedly. 10. The environmental impact assessment conclusion and other results of the environmental impact assessment within five years from the date of the decision to carry out the planned activity may be used to obtain other permits specified by law, provided that they do not provide for the establishment *(approval)* of changes in the activity approved by the decision to carry out the planned activity or the extension of the terms of its implementation.	**Article 9. The environment impact assessment conclusion** 9. The conclusion on environmental impact assessment shall expire in five years if no decision on carrying out the planned activity has been made. If, prior to the receipt of a decision on the implementation of the planned activity, changes are made to the project documentation or changes are made to the legislation that require changes in the environmental conditions defined in the environmental impact assessment conclusion, the environmental impact assessment shall be carried out repeatedly. The requirement to re-evaluate the environmental impact assessment does not apply to changes in the parameters of activities, including wind power plants, which do not have a significant impact on the environment in accordance with the criteria approved by the Cabinet of Ministers of Ukraine. During the period of martial law and within five years from the date of its termination or cancellation, the environmental impact assessment conclusion expires after 10 years if no decision has been made to carry out the planned activity. 10. The environmental impact assessment conclusion and other results of the environmental impact assessment within five years from the date of the decision to carry out the planned activity may be used to obtain other permits specified by law, provided that they do not provide for the establishment *(approval)* of changes in the activity approved by the decision to carry out the planned activity or the extension of the terms of its implementation. During the period of martial law and within five years from the date of its termination or cancellation, the conclusion on environmental impact assessment and other results of environmental impact assessment within 10 years from the date of the decision to carry out the planned activity may be used to obtain other permits in accordance with the law, provided that they do not provide for the establishment *(approval)* of changes in the activity approved by the decision to carry out the planned activity or extension of the terms. The provision provided for in the second paragraph of part ten of this Article remains in force within five years from the date of termination or cancellation of martial law in Ukraine or in the certain area.

ANNEX 4
DRAFT
LAW OF UKRAINE

On Amendments to Certain Legislative Acts of Ukraine on Creating Conditions for the Development of the Wind Energy Industry of Ukraine

THE VERKHOVNA RADA OF UKRAINE DECIDES:

I. To amend the following legislative acts of Ukraine:

1. To include in the Commercial Code of Ukraine *(Vidomosti of the Verkhovna Rada of Ukraine, 2003, No.18, No. 19-20, No. 21-22, Article 144)* the following amendments:

1) to add to Article 225 new clause five of such content:

"5. The parties to a commercial obligation, by mutual agreement, have the right to determine in advance the agreed amount of damages to be reimbursed in a fixed amount or as a percentage of the amount of non-fulfillment or improper fulfillment of the obligation for each day of such non-fulfillment or improper fulfillment or another period as agreed by the parties.

It is prohibited for the parties to agree on limitation of their liability if the amount of liability for a certain type of obligations is determined by law."

2. To include in the Civil Code of Ukraine *(Vidomosti of the Verkhovna Rada of Ukraine, 2003, No.No. 40-44, Article 356)* the following amendments:

1) in Article 22.

- add to sub clause two of clause two new sentence of such content:

"The amount of lost profits may be determined and agreed upon in advance by the parties to the contract at the time of conclusion of the relevant agreement in a fixed amount or as a percentage of the amount of non-fulfillment or improper fulfillment of the obligation for each day of such non-fulfillment or improper fulfillment or other period as agreed by the parties."

2) in Article 623.

- add to clause two after words: "proved by the creditor" a comma and words:

", unless the parties to the agreement have determined in advance the specified amount of damages *(lost profits)* to be compensated."

3) in Article 883.

- add to clause two new sentence of such content:

"If a contractor agreement establishes a pre-determined agreed amount of damages to be reimbursed, the contractor shall reimburse the customer for the damages in the amount specified in the contract."

II. Final and transitional provisions

1. This Law enters into force on the day following its publication.

THE COMPARATIVE TABLE
to the Draft Law of Ukraine "On amendments to certain legislative acts of Ukraine on creating conditions for the development of the wind energy industry of Ukraine"

CONTENT OF A LEGISLATIVE PROVISION	CONTENT OF THE RELEVANT PROVISION OF THE DRAFT LAW
The Commercial Code of Ukraine	
Article 225. Composition and amount of compensation for damages 1. The composition of damages to be compensated by the person who committed a commercial offense shall include: • cost of lost, damaged or destroyed property, determined in accordance with the requirements of the law; • additional costs *(penalties paid to other entities, cost of additional work, additional materials, etc.)* incurred by the party that suffered losses as a result of the other party's breach of obligation; • unearned profit *(lost profits)* that the party that suffered the loss had the right to rely on in case of proper performance of the obligation by the other party; • material compensation for non-pecuniary damage in cases established by law. 2. The law may establish limited liability for non-fulfillment or improper fulfillment of obligations in respect of certain types of commercial obligations. 3. In determining the amount of damages, unless otherwise provided by law or contract, the prices prevailing at the place of fulfillment of the obligation on the day the debtor voluntarily satisfies the claim of the party that suffered the damages, and if the claim is not voluntarily satisfied, on the day the relevant claim for recovery of damages is filed with the court. 4. Depending on the specific circumstances, the court may satisfy the claim for damages by considering the prices as of the date of the court decision.	**Article 225. Composition and amount of compensation for damages** 1. The composition of damages to be compensated by the person who committed a commercial offense shall include: • cost of lost, damaged or destroyed property, determined in accordance with the requirements of the law; • additional costs *(penalties paid to other entities, cost of additional work, additional materials, etc.)* incurred by the party that suffered losses as a result of the other party's breach of obligation; • unearned profit *(lost profits)* that the party that suffered the loss had the right to rely on in case of proper performance of the obligation by the other party; • material compensation for non-pecuniary damage in cases established by law. 2. The law may establish limited liability for non-fulfillment or improper fulfillment of obligations in respect of certain types of commercial obligations. 3. In determining the amount of damages, unless otherwise provided by law or contract, the prices prevailing at the place of fulfillment of the obligation on the day the debtor voluntarily satisfies the claim of the party that suffered the damages, and if the claim is not voluntarily satisfied, on the day the relevant claim for recovery of damages is filed with the court. 4. Depending on the specific circumstances, the court may satisfy the claim for damages by considering the prices as of the date of the court decision. 5. The parties to a commercial obligation, by mutual agreement, have the right to determine in advance the agreed amount of damages to be reimbursed in a fixed amount or as a percentage of the amount of non-fulfillment or improper fulfillment of the obligation for each day of such non-fulfillment or improper fulfillment or another period as agreed by the parties. It is prohibited for the parties to agree on limitation of their liability if the amount of liability for a certain type of obligations is determined by law.

The Civil Code of Ukraine	
Article 22. Compensation for damages and other means of compensation for property damage 1. A person who has suffered damages as a result of violation of their civil right shall be entitled to compensation. 2. The losses are: 1) losses incurred by a person in relation to the destruction or damage of a thing, as well as expenses that a person has made or must make to restore their violated right *(real losses);* 2) income that a person could have actually received under normal circumstances if their right had not been violated *(lost profits).* 3. Losses shall be compensated in full, unless the agreement or law provides for compensation in a smaller or larger amount. If the person who violated the right received income in connection with this, the amount of lost profit to be compensated to the person whose right was violated may not be less than the income received by the person who violated the right. 4. At the request of the person who suffered the damage and in accordance with the circumstances of the case, property damage may be compensated in other ways, in particular, damage to property may be compensated in kind *(transfer of a thing of the same kind and quality, repair of a damaged thing, etc.),* unless otherwise provided by law.	**Article 22. Compensation for damages and other means of compensation for property damage** 1. A person who has suffered damages as a result of violation of their civil right shall be entitled to compensation. 2. The losses are: 1) losses incurred by a person in relation to the destruction or damage of a thing, as well as expenses that a person has made or must make to restore their violated right *(real losses);* 2) income that a person could have actually received under normal circumstances if their right had not been violated *(lost profits).* The amount of lost profits may be determined and agreed upon in advance by the parties to the contract at the time of conclusion of the relevant agreement in a fixed amount or as a percentage of the amount of non-fulfillment or improper fulfillment of the obligation for each day of such non-fulfillment or improper fulfillment or other period as agreed by the parties. 3. Losses shall be compensated in full, unless the agreement or law provides for compensation in a smaller or larger amount. If the person who violated the right received income in connection with this, the amount of lost profit to be compensated to the person whose right was violated may not be less than the income received by the person who violated the right. 4. At the request of the person who suffered the damage and in accordance with the circumstances of the case, property damage may be compensated in other ways, in particular, damage to property may be compensated in kind *(transfer of a thing of the same kind and quality, repair of a damaged thing, etc.),* unless otherwise provided by law.
Article 623. Compensation for damages caused by a breach of an obligation 1. A debtor in breach of an obligation must reimburse the creditor for the losses incurred. 2. The amount of losses caused by the breach of obligation shall be proved by the creditor. 3. Damages are determined by considering the market prices prevailing on the day the debtor voluntarily satisfies the creditor's claim in the place where the obligation is to be fulfilled, and if the claim was not satisfied voluntarily, on the day the claim is filed, unless otherwise provided by agreement or law. The court may satisfy a claim for damages based on the market prices prevailing on the day of the judgment. 4. When determining unearned income *(lost profits),* the measures taken by the creditor to obtain them are taken into account.	**Article 623. Compensation for damages caused by a breach of an obligation** 1. A debtor in breach of an obligation must reimburse the creditor for the losses incurred. 2. The amount of losses caused by the breach of obligation shall be proved by the creditor, unless the parties to the agreement have determined in advance the specified amount of damages *(lost profits)* to be compensated. 3. Damages are determined by considering the market prices prevailing on the day the debtor voluntarily satisfies the creditor's claim in the place where the obligation is to be fulfilled, and if the claim was not satisfied voluntarily, on the day the claim is filed, unless otherwise provided by agreement or law. The court may satisfy a claim for damages based on the market prices prevailing on the day of the judgment. 4. When determining unearned income *(lost profits),* the measures taken by the creditor to obtain them are taken into account.

Article 883. Contractor's responsibility 1. The contractor is responsible for defects in the constructed facility, for it delayed transfer to the customer, and for other breaches of the contract *(failure to achieve the design capacity, other projected indicators, etc.),* unless he proves that these breaches occurred through no fault of his own. 2. For non-fulfillment or improper fulfillment of obligations under a construction agreement, the contractor shall pay a penalty established by the agreement or by law and reimburse losses in full. 3. The amounts of penalties *(fines)* paid by the contractor for failure to meet the deadlines for certain works shall be returned to the contractor if all works are completed by the deadline established by the contract.	**Article 883. Contractor's responsibility** 1. The contractor is responsible for defects in the constructed facility, for it delayed transfer to the customer, and for other breaches of the contract *(failure to achieve the design capacity, other projected indicators, etc.),* unless he proves that these breaches occurred through no fault of his own. 2. For non-fulfillment or improper fulfillment of obligations under a construction agreement, the contractor shall pay a penalty established by the agreement or by law and reimburse losses in full. If a contractor agreement establishes a pre-determined agreed amount of damages to be reimbursed, the contractor shall reimburse the customer for the damages in the amount specified in the contract. 3. The amounts of penalties *(fines)* paid by the contractor for failure to meet the deadlines for certain works shall be returned to the contractor if all works are completed by the deadline established by the contract.

ANNEX 5

DRAFT
THE CABINET OF MINISTERS OF UKRAINE
RESOLUTION

On the amendments to the Resolution of the Cabinet of Ministers of Ukraine “On the Movement of Large and Heavy Vehicles on Highways, Streets and Railway Crossings”

The Cabinet of Ministers of Ukraine decrees:

Amend the Resolution of the Cabinet of Ministers of Ukraine “On the Movement of Large and Heavy Vehicles on Highways, Streets and Railway Crossings” as follows.

AMENDMENTS BY THE RESOLUTION OF THE CABINET OF MINISTERS OF UKRAINE

of the Cabinet of Ministers of Ukraine “On the Movement of Large and Heavy Vehicles on Highways, Streets and Railway Crossings”

1. Add to clause 4 of the Resolution of the Cabinet of Ministers of Ukraine “On the Movement of Large and Heavy Vehicles on Highways, Streets and Railway Crossings” dated 18 August 2001 No. 30 *(Official Bulletin of Ukraine, 2001 p., No. 3, p. 203, Article 75, act code 17596/2001)* new paragraph of such content:

“The owners of the street and road network, railway crossings, bridge facilities, municipal electric transport services, power grids, electrification, and telecommunications are obliged to consider the request for approval of the conditions and modes of movement of oversized and heavy vehicles and provide a reasoned response within a period not exceeding ten calendar days. If no response to the request for approval of the conditions and modes of transportation of oversized and heavy vehicles is provided within the specified period, the relevant approval is considered to be granted on the principle of “silent consent”.”

THE COMPARATIVE TABLE
Amendments to the Resolution of the Cabinet of Ministers of Ukraine "On the Movement of Large and Heavy Vehicles on Highways, Streets and Railway Crossings"

CONTENT OF A LEGISLATIVE PROVISION	CONTENT OF THE RELEVANT PROVISION OF THE DRAFT LAW
The Resolution of CMU "On the Movement of Large and Heavy Vehicles on Highways, Streets and Railway Crossings" dated 18 January 2001, No. 30	
4. The movement of heavy and oversized vehicles on roads, streets and railway crossings shall be carried out on the basis of a permit for participation in road traffic of vehicles whose weight or dimensions exceed the standard parameters *(hereinafter referred to as the permit)* issued to the carrier by an authorised unit of the National Police in the form given in the Annex to these Rules, or a document on payment of the traffic fee for such vehicles. The issuance *(refusal to issue, registration, re-registration, revocation)* of a permit is carried out in accordance with the Law of Ukraine "On the Permitting System in the Field of Economic Activity" through administrative service centres or, if technically possible, directly through the Unified State Web Portal of Electronic Services, in particular through information systems of state and local governments integrated with it. The permit is issued by the authorised unit of the National Police on the basis of the approval documents with the owners of the street and road network, railway crossings, bridge facilities, municipal electric transport services, power grids, electrification, and telecommunications, which define the conditions and mode of travel of the said vehicles. The weight parameters may be exceeded by 2 percent *(error margin)* compared to those specified in clause 22.5 of the Traffic Rules without obtaining a permit and paying a toll.	4. The movement of heavy and oversized vehicles on roads, streets and railway crossings shall be carried out on the basis of a permit for participation in road traffic of vehicles whose weight or dimensions exceed the standard parameters *(hereinafter referred to as the permit)* issued to the carrier by an authorised unit of the National Police in the form given in the Annex to these Rules, or a document on payment of the traffic fee for such vehicles. The issuance *(refusal to issue, registration, re-registration, revocation)* of a permit is carried out in accordance with the Law of Ukraine "On the Permitting System in the Field of Economic Activity" through administrative service centres or, if technically possible, directly through the Unified State Web Portal of Electronic Services, in particular through information systems of state and local governments integrated with it. The permit is issued by the authorised unit of the National Police on the basis of the approval documents with the owners of the street and road network, railway crossings, bridge facilities, municipal electric transport services, power grids, electrification, and telecommunications, which define the conditions and mode of travel of the said vehicles. The weight parameters may be exceeded by 2 percent *(error margin)* compared to those specified in clause 22.5 of the Traffic Rules without obtaining a permit and paying a toll. The owners of the street and road network, railway crossings, bridge facilities, municipal electric transport services, power grids, electrification, and telecommunications are obliged to consider the request for approval of the conditions and modes of movement of oversized and heavy vehicles and provide a reasoned response within a period not exceeding ten calendar days. If no response to the request for approval of the conditions and modes of transportation of oversized and heavy vehicles is provided within the specified period, the relevant approval is considered to be granted on the principle of "silent consent".

ANNEX 6.1
JUSTIFICATION FOR

Adoption of the NEURC Resolution “On Approval of Amendments to Certain of the NEURC resolutions”

Pursuant to the provisions of part three of Article 6 of the Law of Ukraine “On Electricity Market” *(the “Law”),* the National Energy and Utilities Regulatory Commission *(the “NEURC”, the “Regulator”)* is authorised to approve market rules, day-ahead and intraday market rules, transmission system code, distribution system code, commercial metering code, retail market rules, other regulatory acts and regulations that regulate the electricity market. In addition, in accordance with the provisions of part two of Article 6 of the Law of Ukraine “On the Electricity Market”, the main tasks of the Regulator in the electricity market include, in particular, ensuring simple and non-burdensome conditions for connection and access to the electricity grid for new users of the system, in particular, removing barriers that may impede access of new buyers and producers of electricity, including those that produce electricity from alternative energy sources, by establishing the procedure for charging for connection to the transmission and distribution systems in accordance with the Law.

The current regulations do not provide for the possibility for electricity producers, including those producing electricity from alternative energy sources, to install electrical installations with an installed capacity higher than the capacity ordered for connection. In practice, this may result in the transmission system operator or distribution system operator refusing to allow such an excess. Without the above option of exceeding the installed capacity over the ordered capacity, the installed capacity utilization factor *(ICF)* of the connection is up to 20% for solar power plants *(SPP)* and up to 45% for wind power plants *(WPP),* up to 20% for a separate operator of an energy storage facility *(ESF),* which would be able to take away during night and daytime “dips” in the electricity market for further discharge during morning and evening peaks. In addition, “hybrid” power plants, in particular a combination of SPPs and wind farms, can reach 60% of the capacity factor, and their combination with SPPs – up to 70%. This significantly increases the reliability of energy production from renewable energy sources and reduces the need for balancing. Accordingly, investors in renewable energy facilities may prefer projects with installed capacities higher than those ordered for connection and/or “hybrid” power plants, as they may not fully use generation peaks *(because the market price is low during them)* to maximise the use of connection at low wind speeds in the case of wind farms, or in the morning and evening in the case of SPPs, when the demand for electricity on the market is higher and prices are better.

The requirement to build separate connections for each facility not only leads to increased costs for customers to connect their wind farms, solar power plants and solar power plants, increased depreciation charges by grid operators and thus higher transmission and distribution fees, as well as incomplete use of the created *(available)* reserve of grid capacity and less access to electricity from alternative energy sources in the system. It also multiplies the time and money required for commissioning, in particular for the construction of new substations and reconstruction of the relevant network. From an investment point of view, it makes sense to invest resources in the restoration of damaged and destroyed facilities of the Ukrainian energy system instead of building additional lines or reconstructing existing networks that are not actually needed for the model of operation of generating equipment and equipment connected to internal networks for the consumption and storage of electricity.

At the same time, the requirements of the technical conditions for connection *(TC)* may provide for separate commercial accounting and effective tools for managing *(for the producer)* and controlling *(for system operators)* the amount of capacity output at the point of connection at the level stipulated by the connection agreement and TC.

Accordingly, in order to enable the relevant connections, it is necessary to clarify in the Transmission System Code and the Distribution System Code that the installed capacity may exceed the ordered capacity *(maximum estimated (forecasted) capacity),* taking into account the existing authorised *(connected) capacity)* and within a certain ordered capacity, the Customer has the freedom to choose electrical equipment by energy resource, type of activity (production, consumption, storage) and installed capacity, provided that it ensures that the capacity ordered for connection is not exceeded at the point of connection and separate commercial metering systems are in place.

In addition, the principle of receiving ordered capacity lower than the installed capacity of the equipment should also be reflected in the License Terms for Electricity Generation and the Market Rules.

It should also be noted that the current regulatory acts establish certain restrictions on the use of storage facilities by producers of electricity from alternative energy sources. Part one of Article 30 of the Law states that a producer has the right to use an energy storage facility *(ESF)* at the place of licensed production activities without obtaining a license for energy storage activities, provided that the storage facility takes electricity exclusively from the producer's generating facilities, if at any time the total capacity with which electricity is supplied from the producer's networks to the IPS of Ukraine does not exceed the installed capacity of the electrical installations of such.

It seems that the requirement for the IPS to take electricity exclusively from its own generating facilities and other restrictions mentioned in Article 30 of the Law should apply if the producer does not have a separate storage license. However, both the Transmission System Code and the Distribution System Code apply the relevant restrictions regardless of the fact that the producer has a storage license. Accordingly, amendments to the Codes are required to clarify that the requirement applies only to producers who do not obtain the said license, and if a license is available, producers are not limited to withdrawing electricity from generating facilities, but may withdraw from any source, provided that at any time the total capacity with which electricity is supplied from the producer's networks to the Integrated Power System of Ukraine does not exceed the amount of ordered capacity *(maximum estimated (forecasted) capacity),* taking into account the existing permitted capacity determined by the relevant connection agreement and technical conditions for connection to the installations of such a manufacturer and the Customer's provision of electricity metering by the Metering System in accordance with the requirements of the Commercial Electricity Metering Code. These amendments to the Codes are necessary to allow the use of the ESF many times a day: not only to take electricity when there is a surplus of own generation, but also when there is a surplus on the market *(to take from the grid when the price is low),* and to reduce the need to build energy infrastructure to connect two separate objects *(the ESF and the power generating equipment),* which in practice may not be possible, as there may not be enough connection capacities to cover 2 maximum outputs, which in practice is unrealistic, for example, a wind farm or a solar power plant with a storage facility will not simultaneously feed to the grid the maximum power from wind and the stored energy in the storage facility. To solve the problem of limiting the output, it is proposed to provide for separate commercial metering and effective management *(for the producer)* and control *(for system operators)* tools for the amount of power output at the point of connection at the level stipulated by the connection agreement and the technical specifications, provided that the plant operator is ready to obtain a license for electricity storage and comply with its requirements.

In view of the above, we propose to adopt the NEURC Resolution "On Approval of Amendments to Certain NEURC Resolutions".

RESOLUTION

NATIONAL ENERGY AND UTILITIES REGULATORY COMMISSION OF UKRAINE *(NEURC)*

On Approval of Amendments to Certain Resolutions of the NEURC

In accordance with the Laws of Ukraine "On the Electricity Market" and "On the National Energy and Utilities Regulatory Commission," the National Energy and Utilities Regulatory Commission is the state regulatory authority for the energy and utilities sectors,

RESOLVED:

1. To approve the Amendments to Certain Resolutions of the National Energy and Utilities Regulatory Commission, as attached.
2. This Resolution shall enter into force on the day following the day of its publication on the official website of the National Energy and Utilities Regulatory Commission.

AMENDMENTS

By the Resolution of the National Commission for State Regulation of Energy and Public Utilities to certain resolutions of the National Commission for State Regulation of Energy and Public Utilities

1. To introduce the following amendments to the Transmission System Code approved by Resolution of the National Energy and Utilities Regulatory Commission of 14 March 2018 No. 309:

1) clause 1.2. of Chapter 1 of Section III shall be set forth in the following wording:

"Any Customer whose electrical installations comply with the established technical conditions for connection and who complies or undertakes to comply with the requirements of this Code shall have the right to connect to the transmission system. At the same time, unless otherwise provided for by this Code or the Law of Ukraine "On the Electricity Market", the connection shall be made in compliance with the following rules:

1) the installed capacity of the Customer's electrical installations may exceed the capacity ordered for connection, taking into account the existing permitted *(connected)* capacity determined by the relevant connection agreement and technical conditions for connection of such electrical installations;

2) production, consumption or storage, energy resources used to generate electricity and the installed capacity of electrical installations at the facilities connected to a single connection point may not be limited, provided that the customer ensures that at any time the total capacity with which electricity is supplied from the customer's networks to the IPS of Ukraine does not exceed the amount of the capacity ordered for connection, taking into account the existing permitted *(connected)* capacity determined by the relevant connection agreement

3) it is allowed to combine the production, consumption or storage of electricity at electrical installations connected to a single connection point to participate in all segments of the electricity market, provided that the Customer ensures electricity metering in accordance with the requirements of the Commercial Metering Code."

2) the first paragraph of clause 11.1. of chapter 1 of section III shall be set forth in the following wording:

"When connecting electrical installations intended for the production of electricity to the transmission system, the customer has the right to install and connect the ESF to the internal power supply networks. If the Customer is an electricity producer, it has the right to use the ESF at the place of licensed production activities without obtaining a licence to conduct economic activities for energy storage, provided that the storage facility extracts electricity exclusively from the generating facilities of such a producer, and in case of obtaining a licence to conduct economic activities for energy storage in respect of the relevant ESF – without restrictions on the source of electricity extraction, provided that the Customer provides metering relevant ESF in accordance with the Commercial Electricity Metering Code."

3) the first paragraph of clause 7.12.1 of chapter 7 of section III shall be amended as follows:
"The User *(except for the DSO)* has the right to install and connect *(connect)* the ESF to its own internal power supply networks, provided that such connection *(connection)* does not lead to an increase in the permitted *(installed)* capacity of the User's electrical installation or, in cases established by this Code, the ordered capacity *(maximum calculated (projected) capacity),* taking into account the existing permitted *(connected)* capacity determined by the relevant connection agreement and technical conditions for the connection of such User".

4) the sixth paragraph of Clause 7.12.1 of Chapter 7 of Section III shall be amended as follows:
"In case of connection *(connection)* of the ESF to the internal power supply networks of an electricity producer that has not obtained a license to carry out economic activities in energy storage, such a producer must ensure that at any time the total capacity with which electricity is supplied from the networks of such an electricity producer to the IPS of Ukraine does not exceed the installed capacity of the electrical installations of such an electricity producer at the place of licensed activity in accordance with a licence to conduct economic activities for electricity production."

5) clause 7.12.1 of Chapter 7 of Section III shall be supplemented with the following paragraph:
"In case of connection *(connection)* of the ESF to the internal power supply networks of an electricity producer that has obtained a license to conduct economic activities in energy storage, such a producer must ensure that at any time the total capacity with which electricity is supplied from the networks of such an electricity producer to the IPS of Ukraine does not exceed the value of the ordered capacity *(maximum estimated (forecasted)* capacity, taking into account the existing permitted *(connected) capacity)* determined by the relevant connection agreement and technical conditions for the connection of electrical installations of such an electricity producer at the place of licensed activity in accordance with the licence to carry out the economic activity for electricity production and the licence to carry out the economic activity for energy storage."

6) the second paragraph of clause 7.12.3 of chapter 7 of section III shall be amended as follows:
"For electricity producers and active consumers, the TSO additionally agrees on the design task for the project:
- requirements for calculations in terms of ensuring the sustainability of existing generating facilities;
- requirements for studying the operating modes of the adjacent grid if the connection of the ESF to the internal power supply networks of the electrical installations of an electricity producer or an active consumer may lead to a change in the schedule of electricity supply of such a producer or an active consumer to the transmission system network."

7) in Annex 1 *(type B),* the section "Electrical Installations intended for the production of electricity" shall be set forth in the following wording:
"Electrical installations intended for the production of electricity

Existing value:
- Permitted electrical capacity: ____ kW, connected to a voltage of ____ kV.
- Installed electrical capacity: ____ kW connected to a voltage of ____ kV, incl:
- solar energy: ____ kW connected to a voltage of ____ kV;
- wind energy: ____ kW connected to a voltage of ____ kV;
- other *(specify):* ____ kW connected to the voltage of ____ kV.

I request to carry out, on a contractual basis, a set of measures to connect to the transmission system of electric power generation facilities with
- maximum estimated (projected) capacity *(taking into account the existing permitted capacity):* ____ kW.
- installed electric capacity *(taking into account the existing installed capacity):* ____ kW, incl:
- solar energy: ____ kW, connected to a voltage of ____ kV;
- wind energy: ____ kW connected to a voltage of ____ kV;
- other *(specify):* ____ kW connected to the voltage of ____ kV,
- to which the energy storage facility with the projected value of the nominal (installed) capacity Pnom _____ kW will be connected.

Schedule of capacity commissioning by years:
[table]

____

____
(the need to connect construction mechanisms and other additional information)"

8) in Annex 1 *(type B)*, the section "Electrical Installations intended for the storage of electricity" shall be set forth in the following wording:
"Electrical installations intended for the production of electricity

Existing value:
- Permitted electrical capacity: ____ kW, connected to a voltage of ____ kV.
- Installed electrical capacity: ____ kW connected to the voltage of ____ kV.

I request to take a set of measures on a contractual basis to connect to the transmission system the electrical installations intended for storage with
- maximum estimated *(projected)* capacity *(taking into account the existing permitted capacity)*: ____ kW.
- installed electrical capacity *(taking into account the existing installed capacity)*: ____ kW

Schedule of capacity commissioning by years:
[table]

____
(the need to connect construction mechanisms and other additional information)";

2. To introduce the following amendments to the Distribution Systems Code approved by NEURC Resolution No. 310 of 14 March 2018:

1) paragraph first of Sub-clause 4.12 of clause 4.1 of section IV shall be set forth in the following wording:
"The DSO shall not have the right to refuse to connect the customer's electrical installations to the distribution system, provided that the customer complies with the requirements and connection procedure specified in this section. At the same time, unless otherwise provided by this Code or the Law of Ukraine "On the Electricity Market", the connection shall be made in compliance with the following rules:
1) the installed capacity of the Customer's electrical installations may exceed the capacity ordered for connection, taking into account the existing permitted *(connected)* capacity determined by the relevant connection agreement and technical conditions for connection of such electrical installations;
2) production, consumption or storage, energy resources used to generate electricity and the installed capacity of electrical installations at the facilities connected to a single connection point may not be limited, provided that the customer ensures that at any time the total capacity with which electricity is supplied from the customer's networks to the IPS of Ukraine does not exceed the amount of the capacity ordered for connection, taking into account the existing permitted *(connected)* capacity determined by the relevant connection agreement;
3) it is allowed to combine the production, consumption or storage of electricity at electrical installations connected to a single connection point to participate in all segments of the electricity market, provided that the Customer ensures electricity metering in accordance with the requirements of the Commercial Metering Code."

2) the first paragraph of sub-clause 4.1.4 of clause 4.1. of section IV shall be revised as follows and supplemented with a new second paragraph:
"An electricity producer that has not obtained a license to carry out economic activities in energy storage has the right to install a ESF at the connection voltage of its own electrical installations intended for the production of electricity or combined production of electricity and heat, provided that the electricity is taken by the ESF exclusively from the producer's generating installations, if at any time the total capacity with which electricity is supplied from the producer's networks to the IPS of Ukraine does not exceed the established power capacity of generating installations of a producer.

An electricity producer that has obtained a license to carry out economic activities for energy storage shall have the right to install an ESF at the connection voltage of its own electrical installations intended for the production of electricity or combined production of electricity and heat, without restrictions on the source of electricity withdrawal, provided that the Customer ensures electricity metering in accordance with the requirements of the Code of Commercial Metering of Electricity, if at any time the total capacity with which the electricity is fed from the Customer's networks to which the above-mentioned facilities are connected to the IPS of Ukraine does not exceed the ordered capacity *(maximum estimated (forecasted) capacity),* taking into account the existing permitted *(connected)* capacity determined by the relevant connection agreement and technical conditions for connection of such facilities of a producer".

3) in Annex 3 to the table, after the column in line 27 "Year of capacity commissioning", add the column "Type of consumer's generating facilities" and the column "Projected value of installed electric capacity";

3. To introduce the following amendments to the Market Rules approved by Resolution of the National Energy and Utilities Regulatory Commission of 14 March 2018 No. 307:

1) in paragraph 3.1.3 of Chapter 3.1 of Section III, replace the word "established" with the word "regulatory";

3. To introduce the following amendments to the Licensing Conditions for Conducting Business Activities for Electricity Generation, approved by Resolution of the National Energy and Utilities Regulatory Commission of 27 December 2017 No. 1467:

1) Sub-clause 4 of clause 2.2 of chapter 2 shall be revised as follows:

"4) to carry out the licensed activity exclusively within the places of business and using the declared means of conducting business specified in the information about them submitted to the NEURC in accordance with the requirements of these License Terms exclusively within the amount of the ordered capacity *(maximum estimated (forecasted) capacity),* taking into account the existing authorised *(connected)* capacity determined by the relevant agreement and technical conditions for connection, which may be less than the installed capacity."

ANNEX 6.2
EXPLANATORY NOTE

to the Draft Law of Ukraine “On Amendments to Some Laws of Ukraine regarding the simplification of connection of generating facilities to power grids”

1. OBJECTIVE

Given the current challenges for Ukraine’s energy system and economy as a whole caused by the armed aggression of the russian federation against Ukraine, there is a need to simplify the conditions for connecting new generating capacities to the power grid.

One of the top priorities for ensuring the sustainability of the economy and post-war recovery of Ukraine should be to ensure that grid connection services are provided in a transparent and predictable manner that allows for effective investment in new generation capacity construction projects.

Clear and understandable connection procedures, rules and regulations are one of the prerequisites for creating and developing business in the country, and therefore improving the existing legislation should be a top priority for the state.

In addition, the complexity of the connection process and complete dependence on the natural monopoly lead to corruption risks, manipulation, and the requestor’s inability to control the connection process.

In addition, given the significant damage to the energy infrastructure caused by the russian federation’s missile and drone strikes, there is a need to increase the number of new generating facilities by providing simple and non-burdensome conditions for connection and access to the power grid for new electricity producers, including those producing electricity from alternative energy sources.

Therefore, the introduction of the mechanisms provided for in this Draft Law will help to strengthen Ukraine’s competitive advantages and its attractiveness to domestic and foreign investors, as the speed and clarity of the procedure for obtaining connection services is a very important criterion for attracting investors. In turn, attracting investments in the construction of new generating capacities and distributed generation will help to improve Ukraine’s energy security as a component of national security.

2. JUSTIFICATION FOR THE NEED TO ADOPT THE DRAFT LAW

The draft law was developed to significantly simplify the conditions for connecting new generating facilities of requestors to the power grids, to create favourable conditions for attracting investments in the development of new generating capacities, including for the production of electricity from alternative energy sources.

3. MAIN PROVISIONS OF THE DRAFT LAW

The draft law envisages:

1) establishing the possibility of booking capacity for the construction of new power plants with a capacity of more than 50 MW;
2) extending the validity period of technical conditions for connection of newly constructed facilities *(including power plants),* taking into account the reasonable time required for their construction.

4. LEGAL ASPECTS

The main legal acts in this area of legal regulation are:

1) the Law of Ukraine “On Electricity Market”
2) the Law of Ukraine “On Regulation of Urban Planning Activities”

5. FINANCIAL AND ECONOMIC JUSTIFICATION

Implementation of the provisions of the draft law will not require any expenditures from the state or local budgets.

6. POSITION OF INTERESTED PARTIES

The draft law does not concern the functioning of local self-government, the rights and interests of territorial communities, local and regional development, social and labour sphere, the rights of persons with disabilities, the functioning and use of Ukrainian as the state language.

The draft law does not concern the sphere of scientific and technical activities.

7. COMPLIANCE ASSESSMENT

The draft law does not contain provisions that violate the rights and freedoms guaranteed by the Convention for the Protection of Human Rights and Fundamental Freedoms.

The draft law does not contain any provisions that affect equal rights and opportunities for women and men, contain risks of corruption and corruption-related offenses, or create grounds for discrimination.

No civic anti-corruption, civic anti-discrimination or civic gender legal expertise of the draft law was conducted.

8. RESULTS FORECAST

The adoption of the draft law is necessary to significantly simplify the conditions for the construction of new generating capacities and the development of distributed generation in the electricity sector.

DRAFT
LAW OF UKRAINE

On Amendments to Some Laws of Ukraine regarding the simplification of connection of generating facilities to power grids

THE VERKHOVNA RADA OF UKRAINE DECIDES:

I. To amend the following laws of Ukraine:

1. In Law of Ukraine “On Electricity Market” *(Bulletin of Verkhovna Rada of Ukraine (VRU), 2017, № 27-28, art.312):*

1) in Article 1:

- part one shall be supplemented with a new clause 341:
  “341) capacity reservation requestor – a business entity that intends to connect electrical installations for the generation of electricity from wind energy with an installed capacity of 50 MW or more and, prior to concluding the connection agreement, has concluded a capacity reservation agreement with the transmission system operator in accordance with the terms of this Law.”

2) in Article 21:

- part four after paragraph two supplement with new paragraphs as follows:
  “The term of the connection agreements shall be determined with due regard to the validity of the technical conditions for connection, as well as the period necessary to execute the obligations of the Parties under the connection agreement and shall not expire until the obligations of the distribution system operator and/or transmission system operator under the relevant agreement are fully executed.”
  “The technical conditions for connection, which are an annex to the connection agreement concluded by the requestor with the transmission system operator, are valid within three years from the date of their issuance, regardless of the change of the requestor, and after approval of the project documentation *(in cases specified in the connection agreement),* full payment of the connection cost and receipt of documents granting the right to perform construction works on the construction object, which is subject to connection under the connection agreement, the validity of the technical conditions is extended for the period necessary for the construction of the last queue of the constriction object, but no more than 10 years from the date of conclusion of the connection agreement.”
  Paragraph three shall be considered as paragraph five.
- paragraph three of part four shall be restated as follows:
  “The Distribution System Code establishes the conditions for connecting requestors’ electrical facilities to the power grids of owners who are not distribution system operators, in particular to the power grids of electricity producers.”
- paragraph one of part twelve shall be restated as follows:
  “12. The transmission system operator may connect the requestor’s electrical facilities to the transmission system’s power grids in accordance with the procedure established by this Law and in cases provided for by the transmission system code.”
- paragraph two of part twelve shall be restated as follows:
  “In such case, the transmission system operator shall provide the requestor with a connection agreement and technical conditions for connection. The connection agreement and technical conditions for connection shall enter into force on the day the requestor pays to the transmission system operator a part of the connection fee in the amount of EUR 5 per 1 kW of the capacity ordered for connection in the hryvnia equivalent on the day of payment, which is established in accordance with the official exchange rate of the National Bank of Ukraine. After its entry into force, the requestor shall select the connection contractor among the business entities entitled to carry out the relevant activities in accordance with the requirements of the law. Based on the received technical conditions for connection, the requestor shall ensure the development and approval of project documentation for the construction, reconstruction and/or technical re-equipment of the external power supply networks for the requestor’s electrical facilities *(up to the point of connection of the requestor’s electrical facilities)* with the transmission system operator and other interested parties, and shall take measures to allocate land plots for the placement of the relevant electricity facilities, and the transmission system operator shall ensure the implementation of construction, installation and launching works and performs the initial connection of the requestor’s facility.”

- after part twenty-six shall be supplemented with a new part as follows:
  "27. Upon the request of a business entity that intends to connect electrical facilities for the generation of electricity from wind energy with an installed capacity of 50 MW or more, the transmission system operator shall conclude a capacity reservation agreement with such business entity based on a standard form approved by the Regulator.

The capacity reservation agreement must establish, in particular:

1) technical solutions regarding the connection *(power supply)* scheme of the generating facilities of the requestor of the capacity reservation;
2) an exceptional list of technical data required to establish the scope of work for the execution of the connection (power supply) scheme;
3) the procedure for making settlements under the agreement, in particular, the procedure for crediting the capacity reservation fee as payment under the agreement for the connection of electrical facilities;
4) obligations of the parties to the agreement to execute the requirements of the legislation to electricity market participants;
5) other rights and obligations, liability of the parties;
6) term of the agreement, grounds and procedure for its early termination.

Under the capacity reservation agreement, the transmission system operator reserves technical solutions for the connection scheme *(power supply)* of the generating facilities of the capacity reservation requestor, and the capacity reservation requestor undertakes to take the actions necessary to submit an application for connection of power facilities and conclude a contract for connection of power facilities in accordance with the terms of this Law within a period not exceeding two years from the date of conclusion of the capacity reservation agreement.

The connection *(power supply)* scheme under which the capacity reservation is made shall be established by the transmission system operator in accordance with the procedure approved by the Regulator. Within six months from the date of conclusion of the capacity reservation agreement, the capacity reservation requestor has the right to initiate a review of technical solutions for the connection scheme of its generating facilities established by the transmission system operator in the relevant capacity reservation agreement. In this case, the capacity reservation requestor shall execute the relevant project documentation defining the scope of work required to implement the proposed connection scheme for its generating facilities, and the transmission system operator shall assess the compliance of such a scheme with regard to ensuring operational safety and a non-discriminatory approach to the connection procedure. The requestor of the capacity reservation is not limited in the number of times it may propose a revision of technical solutions regarding the connection scheme of its generating facilities within six months from the date of conclusion of the reservation agreement. Based on the results of consideration of such an application, the transmission system operator has the right not to approve the change of pre-determined technical solutions if this would lead to the need to amend the technical conditions already issued at the time of this application. The transmission system operator may not disclose information about the connection requestor whose technical conditions require amendments. If the transmission system operator does not approve the technical solutions proposed by the requestor of the capacity reservation, the requestor may apply to the central executive body implementing the state policy in the field of supervision *(control)* in the field of electricity, which shall provide an opinion on the validity of such a resolution. Within 20 calendar days after the conclusion of the capacity reservation agreement, the capacity reservation requestor shall pay to the account of the transmission system operator the cost of the capacity reservation fee, which shall be EUR 5 per 1 kW of capacity booked under the capacity reservation agreement in the hryvnia equivalent on the day of payment of the cost of the capacity reservation fee, established in accordance with the official exchange rate of the National Bank of Ukraine. The procedure for opening an account by the transmission system operator to which the capacity reservation fee is paid and the type of such account shall be established by the Regulator. In case the requestor of the capacity reservation applies to the transmission system operator with whom the capacity reservation agreement is concluded within the term specified in this agreement with an application for connection of electrical installations, the connection scheme *(power supply)* of which was reserved under the capacity reservation agreement, the cost of the capacity reservation fee paid under the capacity reservation agreement shall be credited as a component of the connection fee for such electrical facilities. If, before the expiry of the capacity reservation agreement, the capacity reservation requestor fails to apply to the transmission system operator for connection of the electrical facilities in accordance with the procedure established by the Transmission System Code for which the capacity is reserved, the capacity reservation agreement shall be terminated, and the funds paid to the transmission system operator as the cost of the capacity reservation fee shall be used by the transmission system operator to implement the measures established by the transmission system development plan. The obligations of the parties under the capacity reservation agreement shall be deemed terminated after the expiration of the two-year period".

3) in Article 25 in part five:

- After the words "Electricity generators", the phrase "from alternative energy sources *(and with the use of hydropower – only micro, mini and small hydropower plants)"* shall be removed.
- After the words "have the right to supply electricity to electrical facilities for their own consumption not related to the generation of electricity", the phrase "located on the same land plot or land plots that have common borders with them" shall be removed.
- After the words "Electric networks of internal power supply connecting the generating facility of the producer", the phrase "from alternative energy sources *(and with the use of hydropower – only micro, mini and small hydropower plants)"* shall be removed.
- After the words "electricity from own consumption electrical facilities not related to the production of electricity", the phrase "located on the same land plot or land plots that have common borders" shall be removed.
- The phrase "in relations with the guaranteed buyer" shall be removed and supplemented with "in relations of the electricity generator with other market participants".
- After part eight supplement with a new part as follows:
  "9. Electricity generators shall have the right to supply electricity to consumer electrical facilities provided that the installed capacity of the electricity generating facility of the electricity generator does not exceed the permitted capacity of all consumer electrical facilities intended for electricity consumption and if the consumer purchases the entire volume of electricity generated by such generating facilities. Electricity networks connecting the electricity generating facility of the electricity producer with such electrical facilities of the consumer shall not be considered a direct line.

The procedure for connecting such electrical facilities of electricity producers to consumer power grids, the procedure for metering and selling electricity produced by such producers, the procedure for changing the power source of such electrical facilities, specifics and restrictions on connecting other consumers to such electrical facilities shall be established by the Regulator".

4) clause 221 of chapter "FINAL AND TRANSITIONAL PROVISIONS" shall be supplemented with a new paragraph as follows:
"Until 1 January 2025, the connection requestors that intend to build generating facilities with an installed capacity of 50 MW or more under connection agreements that expire before 1 January 2026, have the right to conclude a capacity reservation agreement in accordance with Part 27 of Article 21 of this Law and to reserve technical solutions for the connection scheme *(power supply)* of the requestor's generating facilities established by the current connection agreement. In this case, the funds paid as a connection fee under the current connection agreement shall be credited as a payment for capacity reservation".

2. In the Law of Ukraine "On Regulation of Urban Planning Activities" ***(Bulletin of the Verkhovna Rada of Ukraine (VRU), 2011, No. 34, art. 343):***

1) in Article 30:

- part seven shall be restated as follows:
  "7. Except as established by the Law of Ukraine "On the Electricity Market", the technical conditions are valid until the completion of the construction of the facility, regardless of the change of the requestor or the company, institution or organization that provided such technical conditions. The technical conditions may be amended only with the consent of the requestor.

If the requestor is a business entity that has acquired the right to support based on the results of the auction, the technical conditions for the electricity facility that generates electricity using alternative energy sources issued to such requestor shall be valid for the period of execution of obligations for the construction and commissioning of electricity facilities in accordance with Article93 of the Law of Ukraine "On Alternative Energy Sources".

II. Final and transitional provisions

1. This Law shall enter into force on the day following the day of its publication.

COMPARATIVE TABLE
to the Draft Law of Ukraine "On Amendments to Some Laws of Ukraine regarding the simplification of connection of generating facilities to power grids"

THE WORDING OF THE LAW	WORDING OF THE RULE WITH THE PROPOSED CHANGES
THE LAW OF UKRAINE "ON THE ELECTRICITY MARKET"	
Article 1. Definition of terms 1. In this Law, the following terms shall have the following meanings: No provision	**Article 1. Definition of terms** 1. In this Law, the following terms shall have the following meanings: 34^1) capacity reservation requestor – a business entity that intends to connect electrical installations for the generation of electricity from wind energy with an installed capacity of 50 MW or more and, prior to concluding the connection agreement, has concluded a capacity reservation agreement with the transmission system operator in accordance with the terms of this Law;
Article 21. Connection of electrical facilities to power grids 4. The procedure for connection to the power grids of the transmission system operator and distribution system operators is established by the transmission system code and the distribution system code and should be transparent, ensure efficient and non-discriminatory connection to the transmission and distribution systems. The procedure for connection should establish, among other things, procedural issues, terms of connection, and standard forms of connection agreements. No provision	**Article 21. Connection of electrical facilities to power grids** 4. The procedure for connection to the power grids of the transmission system operator and distribution system operators is established by the transmission system code and the distribution system code and should be transparent, ensure efficient and non-discriminatory connection to the transmission and distribution systems. The procedure for connection should establish, among other things, procedural issues, terms of connection, and standard forms of connection agreements. The term of the connection agreements shall be determined with due regard to the validity of the technical conditions for connection, as well as the period necessary for the Parties to fully execute their obligations under the relevant agreement. The technical conditions for connection, which are an annex to the connection agreement concluded by the requestor with the transmission system operator or distribution system operator, are valid within three years from the date of their issuance, regardless of the change of the requestor, and if the requestor is a business entity that has acquired the right to support based on the results of the auction, the technical conditions for the electricity facility that generates electricity using alternative energy sources issued to such a requestor shall be valid for the period of execution of obligations to construct and commission electricity facilities in accordance with Article 93 of the Law of Ukraine "On Alternative Energy Sources".

No provision	After approval of the project documentation *(in cases specified in the connection agreement),* full payment of the connection cost and receipt of documents granting the right to perform construction works on the construction object, which is subject to connection under the connection agreement, the validity of the technical conditions is extended for the period necessary for the construction of the last queue of the construction object, but no more than 10 years from the date of conclusion of the connection agreement. In case of grounds for extending the term of validity of the connection agreements and the validity of the technical conditions for connection provided for in paragraphs three to five of this part, upon the request of the requestor, the distribution system operator/transmission system operator shall conclude an additional agreement to the connection agreement on extending the term of validity of the connection agreement and the validity of the technical conditions for the period established in accordance with the rules provided for in paragraphs three to four of this part.
The Distribution System Code establishes the conditions for connecting requestors' electrical facilities to the power grids of owners who are not distribution system operators.	The Distribution System Code and the Transmission System Code establish the conditions for connecting requestors' electrical facilities to the power grids of owners who are not distribution system operators or transmission system operator, in particular to the power grids of electricity producers.
12. The transmission system operator may connect the requestor's electrical facilities to the transmission system's power grids in accordance with the procedure established by this Law and in cases provided for by the transmission system code. In such case, the transmission system operator shall provide the requestor technical conditions for connection, and the requestor selects the connection project contractor from among the business entities that are entitled to carry out the relevant type of activity in accordance with the requirements of the law. Based on the received technical conditions for connection, the requestor shall ensure the development and approval of project documentation for the construction, reconstruction and/or technical re-equipment of the external power supply networks for the requestor's electrical facilities *(up to the point of connection of the requestor's electrical facilities)* with the transmission system operator and other interested parties, and shall take measures to allocate land plots for the placement of the relevant electricity facilities, and the transmission system operator shall ensure the implementation of construction, installation and launching works and performs the initial connection of the requestor's facility.	12. The transmission system operator may connect the requestor's electrical facilities to the transmission system's power grids in accordance with the procedure established by this Law and in cases provided for by the transmission system code. In such case, the transmission system operator shall provide the requestor with a connection agreement and technical conditions for connection. The connection agreement and technical conditions for connection shall enter into force on the day the requestor pays to the transmission system operator a part of the connection fee in the amount of EUR 5 per 1 kW of the capacity ordered for connection in the hryvnia equivalent on the day of payment, which is established in accordance with the official exchange rate of the National Bank of Ukraine. After its entry into force, the requestor shall select the connection contractor among the business entities entitled to carry out the relevant activities in accordance with the requirements of the law. Based on the received technical conditions for connection, the requestor shall ensure the development and approval of project documentation for the construction, reconstruction and/or technical re-equipment of the external power supply networks for the requestor's electrical facilities *(up to the point of connection of the requestor's electrical facilities)* with the transmission system operator and other interested parties, and shall take measures to allocate land plots for the placement of the relevant electricity facilities, and the transmission system operator shall ensure the implementation of construction, installation and launching works and performs the initial connection of the requestor's facility.

No provision	27. Upon the request of a business entity that intends to connect electrical facilities for the generation of electricity from wind energy with an installed capacity of 50 MW or more, the transmission system operator shall conclude a capacity reservation agreement with such business entity based on a standard form approved by the Regulator. The capacity reservation agreement must establish, in particular: 1) technical solutions regarding the connection *(power supply)* scheme of the generating facilities of the requestor of the capacity reservation; 2) an exceptional list of technical data required to establish the scope of work for the execution of the connection (power supply) scheme; 3) the procedure for making settlements under the agreement, in particular, the procedure for crediting the capacity reservation fee as payment under the agreement for the connection of electrical facilities; 4) obligations of the parties to the agreement to execute the requirements of the legislation to electricity market participants; 5) other rights and obligations, liability of the parties; 6) term of the agreement, grounds and procedure for its early termination. Under the capacity reservation agreement, the transmission system operator reserves technical solutions for the connection scheme *(power supply)* of the generating facilities of the capacity reservation requestor, and the capacity reservation requestor undertakes to take the actions necessary to submit an application for connection of power facilities and conclude an agreement for connection of power facilities in accordance with the terms of this Law within a period not exceeding two years from the date of conclusion of the capacity reservation agreement. The connection *(power supply)* scheme under which the capacity reservation is made shall be established by the transmission system operator in accordance with the procedure approved by the Regulator. Within six months from the date of conclusion of the capacity reservation agreement, the capacity reservation requestor has the right to initiate a review of technical solutions for the connection scheme of its generating facilities established by the transmission system operator in the relevant capacity reservation agreement. In this case, the capacity reservation requestor shall execute the relevant project documentation defining the scope of work required to implement the proposed connection scheme for its generating facilities, and the transmission system operator shall assess the compliance of such a scheme with regard to ensuring operational safety and a non-discriminatory approach to the connection procedure.

No provision	The requestor of the capacity reservation is not limited in the number of times it may propose a revision of technical solutions regarding the connection scheme of its generating facilities within six months from the date of conclusion of the reservation agreement. Based on the results of consideration of such an application, the transmission system operator has the right not to approve the change of pre-determined technical solutions if this would lead to the need to amend the technical conditions already issued at the time of this application. The transmission system operator may not disclose information about the connection requestor whose technical conditions require amendments. If the transmission system operator does not approve the technical solutions proposed by the requestor of the capacity reservation, the requestor may apply to the central executive body implementing the state policy in the field of supervision *(control)* in the field of electricity, which shall provide an opinion on the validity of such a resolution. Within 20 calendar days after the conclusion of the capacity reservation agreement, the capacity reservation requestor shall pay to the account of the transmission system operator the cost of the capacity reservation fee, which shall be EUR 5 per 1 kW of capacity booked under the capacity reservation agreement in the hryvnia equivalent on the day of payment of the cost of the capacity reservation fee, established in accordance with the official exchange rate of the National Bank of Ukraine. The procedure for opening an account by the transmission system operator to which the capacity reservation fee is paid, and the type of such account shall be established by the Regulator. In case the requestor of the capacity reservation applies to the transmission system operator with whom the capacity reservation agreement is concluded within the term specified in this agreement with an application for connection of electrical installations, the connection scheme *(power supply)* of which was reserved under the capacity reservation agreement, the cost of the capacity reservation fee paid under the capacity reservation agreement shall be credited as a component of the connection fee for such electrical facilities. If, before the expiry of the capacity reservation agreement, the capacity reservation requestor fails to apply to the transmission system operator for connection of the electrical facilities in accordance with the procedure established by the Transmission System Code for which the capacity is reserved, the capacity reservation agreement shall be terminated, and the funds paid to the transmission system operator as the cost of the capacity reservation fee shall be used by the transmission system operator to implement the measures established by the transmission system development plan. The obligations of the parties under the capacity reservation agreement shall be deemed terminated after the expiration of the two-year period.

No provision	Power reservation agreement shall be deemed terminated early in case of violation of obligations to pay the power reservation fee under the power reservation agreement of the requestor of power reservation – from the day following the day of expiration of the relevant obligation of the power reservation requestor and/or other obligations of the power reservation requestor in the power reservation agreement.
Article 25. Direct line 5. Generators of electricity from alternative energy sources *(and only micro, mini and small hydropower plants using hydropower)* have the right to supply electricity to their own consumption electrical facilities not related to electricity generation located on the same land plot or land plots that share common boundaries with them, by internal electricity supply grids, provided that commercial metering is organised and they are united by one metering site. The requirements for organizing commercial metering of electricity at facilities united by a single metering site within this metering site, establishing the volumes of consumed/delivered electricity *(balancing)* at such metering sites are established by the Commercial Metering Code. Electricity grids of internal power supply connecting the generating facility of the generator from alternative energy sources *(and with the use of hydropower – only micro, mini and small hydropower plants)* with self-consumption electrical facilities not related to the generation of electricity located on the same land plot or land plots that have common boundaries with it are not considered a direct line. Electricity generated by self-consumption electrical facilities not related to electricity generation through the internal power supply grids shall be considered as generated for own needs by such an electricity facility in relations with the guaranteed buyer. Peculiarities of connection of self-consumption electrical facilities of generators of electricity from alternative energy sources *(and with the use of hydropower – only micro, mini- and small hydropower plants)* and peculiarities and restrictions on connection of other generators to such electrical facilities are established by the Regulator.	**Article 25. Direct line** 5. Electricity generators have the right to supply electricity to self-consumption electrical facilities not related to electricity generation by internal power supply grids, provided that commercial metering is organised and they are combined into one metering site. The requirements for organizing commercial metering of electricity at facilities united by a single metering site within this metering site, establishing the volumes of consumed/delivered electricity *(balancing)* at such metering sites are established by the Commercial Metering Code. Electric grids of internal power supply connecting the generating facility of an electricity generator with self-consumption electrical facilities not related to electricity generation are not considered a direct line. Electricity generated by self-consumption electrical facilities not related to electricity generation through internal power supply grids shall be considered as generated for own needs by such an electricity facility in the relations between the electricity generator and other market participants. Peculiarities of connection of self-consumption electrical facilities of electricity generators from alternative energy sources *(and with the use of hydropower – only micro, mini- and small hydropower plants)* and peculiarities and restrictions on connection of other generators to such electrical facilities are established by the Regulator.
No provision	9. Electricity generators shall have the right to supply electricity to consumer electrical facilities in accordance with the provisions of Article 58-1 of this Law. Electricity networks connecting the electricity generating facility of the electricity producer with such electrical facilities of the consumer shall not be considered a direct line. The procedure for connecting such electrical facilities of electricity producers to consumer power grids, the procedure for metering and selling electricity produced by such producers, the procedure for changing the power source of such electrical facilities, specifics and restrictions on connecting other consumers to such electrical facilities shall be established by the Regulator.

Chapter XVII **FINAL AND TRANSITIONAL PROVISIONS** 221. Electricity grid connection agreements concluded before the entry into force of this Law shall continue to be valid until their expiration date. If the agreement does not provide for its validity period, the parties shall settle their agreement relations regarding the establishment of the validity period of such agreements or their termination by signing a relevant additional agreement no later than 1 January 2024. If the parties fail to settle their agreement in the manner specified in this clause, the following agreements shall be terminated as of 1 January 2024.	**Chapter XVII** **FINAL AND TRANSITIONAL PROVISIONS** 221. Electricity grid connection agreements concluded before the entry into force of this Law shall continue to be valid until their expiration date. If the agreement does not provide for its validity period, the parties shall settle their agreement relations regarding the establishment of the validity period of such agreements or their termination by signing a relevant additional agreement no later than 1 January 2024. If the parties fail to settle their agreement in the manner specified in this clause, the following agreements shall be terminated after the expiration of six calendar months from the date of entry into force of this Law. Within six calendar months from the date of entry into force of this Law, the connection requestors that intend to build generating facilities with an installed capacity of 50 MW or more under connection agreements that expire before January 1, 2026, have the right to conclude a capacity reservation agreement in accordance with Part 27 of Article 21 of this Law and to reserve technical solutions for the connection scheme (power supply) of the requestor's generating facilities established by the current connection agreement. In this case, the funds paid as the connection fee under the current connection agreement shall be credited as a payment for the capacity reservation.
THE LAW OF UKRAINE "ON REGULATION OF URBAN PLANNING ACTIVITIES"	
Article 30. Technical conditions 7. The technical conditions are valid until the completion of the construction of the facility, regardless of the change of the requestor or the company, institution or organization that provided such technical conditions. The technical conditions may be amended only with the consent of the requestor. For electric facilities that generate electricity using alternative energy sources, the technical conditions are valid: • for facilities that generate electricity from solar energy – no more than two years from the date of their issuance, regardless of the change of the requestor; • for facilities that generate electricity from other types of alternative energy sources – no more than three years from the date of their issuance, regardless of the change of the requestor.	**Article 30. Technical conditions** 7. Except as established by the Law of Ukraine "On the Electricity Market", the technical conditions are valid until the completion of the construction of the facility, regardless of the change of the requestor or the company, institution or organization that provided such technical conditions. The technical conditions may be amended only with the consent of the requestor.

If the requestor is a business entity that has acquired the right to support based on the results of the auction, the technical conditions for the electricity facility that generates electricity using alternative energy sources issued to such requestor shall be valid for the period of execution of obligations for the construction and commissioning of electricity facilities in accordance with Article 93 of the Law of Ukraine “On Alternative Energy Sources”. If the requestor is a business entity that intends to generate electricity from alternative energy sources *(except for electricity facilities or their construction queues (launch complexes) that generate electricity from solar energy)* and, in accordance with part four of Article 71 of the Law of Ukraine “On the Electricity Market”, has concluded an agreement for the sale and purchase of electricity at a “green” tariff by 31 December 2019, the technical conditions for an electricity facility that generates electricity from alternative energy sources *(except for electricity facilities or their construction queues (launch complexes) that generate electricity from solar energy)* issued to such a requestor shall be valid until 31 December 2024.	If the requestor is a business entity that has acquired the right to support based on the results of the auction, the technical conditions for the electricity facility that generates electricity using alternative energy sources issued to such requestor shall be valid for the period of execution of obligations for the construction and commissioning of electricity facilities in accordance with Article 93 of the Law of Ukraine “On Alternative Energy Sources”.

ANNEX 7
EXPLANATORY NOTE

To the Draft Law “On Amendments to Some Laws of Ukraine regarding the support for the development of alternative energy”

1. OBJECTIVE

Taking into account the current challenges for the energy system and the economy of Ukraine as a whole caused by the armed aggression of the russian federation against Ukraine, there is a need to create conditions for the rapid attraction of investments in the construction of new electricity-generation facilities. Such conditions should ensure the projects to be attractive for private and bank financing. One of the criteria for such attractiveness is the guaranteed long-term offtake i.e. the right to sell electricity *(12 years or more)* at a price established on a competitive basis – based on the results of an auction.

The applicable Ukrainian legislation provides for the possibility of holding auctions for the distribution of support quotas for new RES projects, the winners of which are entitled to enter into an agreement for difference with the SE Guaranteed Buyer under the feed-in premium mechanism.

At the same time, existing support mechanism, combined with regulatory changes in the electricity market, cannot be considered reliable. Thus, the level of payments by the SE Guaranteed Buyer in 2024 is about 40%.

At the same time, given the peculiarities of the feed-in premium mechanism *(i.e. the absence of direct trading operations between RES producers with support and SE Guaranteed Buyer),* the use of SE Guaranteed Buyer as an intermediary to redistribute funds from NPC Ukrenergo *(as the transmission system operator)* to RES producers with support is inappropriate and creates additional operational and regulatory risks.

In this view, there is a need to amend the current legislation of Ukraine in order to ensure the right of RES producers to enter into direct agreements on the provision of services under the feed-in premium mechanism with NPC Ukrenergo.

The introduction of the changes envisaged by in the proposed Draft Law, namely, will increase the transparency of the mechanism for support of the RES producers who construct new electrical facilities intended for electricity generation, making it more favourable for attracting of investments and strengthening Ukraine’s competitive advantages and its attractiveness to domestic and foreign investors.

In addition, attracting investments in the construction of new electricity-generating facilities and distributed generation will help to improve Ukraine’s energy security as a component of national security.

2. JUSTIFICATION FOR THE NEED TO ADOPT THE LAW

The draft law was developed to increase the transparency and reliability of the feed-in premium mechanism for attracting equity and bank financing to renewable energy projects by granting producers of electricity from alternative energy sources the right to enter into direct agreements for the provision of services under the feed-in premium mechanism with NPC Ukrenergo.

3. MAIN PROVISIONS OF THE DRAFT LAW

The draft law envisages:

1) Amendments to the Law of Ukraine "On Electricity Market" and the Law of Ukraine "On Alternative Energy Sources" to impose the responsibility for implementing the feed-in premium mechanism from SE Guaranteed Buyer to PrJSC NPC Ukrenergo;
2) granting the right to electricity producers from alternative energy sources to enter into direct agreements for the provision of services under the feed-in premium mechanism with PrJSC NPC Ukrenergo.

4. LEGAL ASPECTS

The main legal acts in this area of legal regulation are:

1) the Law of Ukraine "On the Electricity Market" as of 13 April 2017 No. 2019-VIII
2) the Law of Ukraine "On Alternative Energy Sources" as of 20 February 2003 No. 555-IV

5. FINANCIAL AND ECONOMIC JUSTIFICATION

Implementation of the provisions of the draft law will not require any expenditures from the state or local budgets.

6. POSITION OF INTERESTED PARTIES

The draft law does not concern the functioning of local self-government, the rights and interests of territorial communities, local and regional development, social and labour sphere, the rights of persons with disabilities, the functioning and use of Ukrainian as the state language.

The draft law does not concern the sphere of scientific and technical activities.

7. ASSESSMENT OF COMPLIANCE

The draft law does not contain provisions that violate the rights and freedoms guaranteed by the European Convection on Human Rights and Fundamental Freedoms.

The draft law neither contains any provisions that affect equal rights and opportunities for women and men, nor contain risks of corruption and corruption-related offenses, nor create grounds for discrimination.

No civic anti-corruption, civic anti-discrimination, or civic gender legal expertise of the draft law was conducted.

8. RESULTS FORECAST

The adoption of the draft law is necessary to significantly increase the volume of investments and a number of new projects for the construction of electricity-generating facilities using alternative energy sources.

DRAFT
LAW OF UKRAINE

On Amendments to Some Laws of Ukraine regarding the support for the development of alternative energy

THE VERKHOVNA RADA OF UKRAINE DECIDES:

I. To amend the following laws of Ukraine:

1. In the Law of Ukraine "On Alternative Energy Sources" ***(Bulletin of the Verkhovna Rada of Ukraine, 2003, No. 24, art. 155):***

1) in part one of Article 1:
- in paragraph twenty-two the words "guaranteed buyer" shall be replaced with "transmission system operator".

2) in part five of Article 9^2:
- replace the words "guaranteed buyer" with "transmission system operator".

3) in Article 9^3:
- part one shall be restated as follows:
  "Support of electricity producers from alternative energy sources that have been granted the right for support based on the results of an auction is carried out by guaranteeing the purchase of service under the feed-in premium mechanism in the volumes and in the manner established by the Law of Ukraine "On the Electricity Market", at the auction price, taking into account the premium established in accordance with Article 9^2 of this Law, on the basis of an agreement concluded with the transmission system operator on the provision of a service under the feed-in premium mechanism."
- in part eleven the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in paragraph two of part sixteen the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part twenty-six the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part twenty-seven the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in parts twenty-eight and twenty-nine the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-one the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-two the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-three the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-four the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-five the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-seven the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part thirty-eight the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in parts thirty-nine and forty the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part forty-one the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in part forty-four the words "guaranteed buyer" shall be replaced with "transmission system operator".

4) in Article 9^7:
- in part twenty the words "or in respect of which the service is provided under the feed-in premium mechanism" shall be removed and supplemented with the words "Guarantees of origin of electricity generated from renewable energy sources issued for the volume of electricity generated at electrical facilities or their construction stages *(start-up complexes)* of electricity producers in respect to which the service is provided under the feed-in premium mechanism shall become the property of the transmission system operator simultaneously with the acceptance of the transmission of the service under the feed-in premium mechanism. The guarantee of origin of electricity generated from renewable energy sources is a component of the feed-in premium mechanism and is included in the cost of such service purchased by the transmission system operator."
- in part twenty-two after the words "Guaranteed Buyer", shall be supplemented with ", transmission system operator"

2. In the Law of Ukraine “On the Electricity Market” ***(Bulletin of the Verkhovna Rada of Ukraine (VRU), 2017, No. 27-28, art.312):***

1) in part one of Article 1:

- subclause 16 shall be restated as follows:
  “guaranteed buyer *(hereinafter referred to as the “guaranteed buyer”)* is a business entity that, in accordance with this Law, is obliged to purchase electricity from electricity producers who have been set a “green” tariff, whose electrical facilities ir construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer, as well as to execute other functions established by law”;
- subclause 55 after the words “to meet the reasonable demand for electricity transmission” shall be supplemented with the words “as well as for the purchase of the service for providing support for the generation of electricity from alternative sources under the feed-in premium mechanism *(service under the feed-in premium mechanism)* from electricity producers who have concluded an agreement on the provision of the service for providing support for the generation of electricity from alternative energy sources under the feed-in premium mechanism *(agreement on the provision of the service under the feed-in premium mechanism)*”;

2) in Article 33:

- part three after subclause 19 shall be supplemented with new subclauses 20, 21, 22 and 23 as follows:
  “20) to systematise commercial metering data on the actual volumes of electricity supplied by electricity producers from whom the transmission system operator purchases services under the feed-in premium mechanism;
  21) to purchase from electricity producers who have been granted a “green” tariff, if the electricity generating facilities or their construction stages *(start-up complexes)* are not in the balancing group of the guaranteed buyer and an agreement for the provision of services under the feed-in premium mechanism has been concluded with respect to such facilities, and electricity producers who have acquired the right to support by auction, a service under the feed-in premium mechanism for increasing the share of energygeneration from alternative energy sources, if such electricity producers have concluded an agreement for the provision of services under the feed-in premium mechanism:
  22) to organise auctions for the distribution of support quotas in accordance with Article 93 of the Law of Ukraine “On Alternative Energy Sources”;
  23) to timely and fully pay for the service approved by the Regulator under the feed-in premium mechanism provided by electricity producers who have been granted a “green” tariff or who have acquired the right to support based on the results of the auction.”

3) after Article 33 shall be supplemented with a new Article 33^1 as follows:

- “Article 33^1. Purchase of services under the feed-in premium mechanism
  1. The transmission system operator is obliged to purchase from the business entities that have been set a “green” tariff if such an electrical facility or construction stage *(start-up complex)* of such electricity producer is not in the balancing group of the guaranteed buyer, and from the business entities that have acquired the right to support by the results of the auction, the service under the “feed-in” premium mechanism during the entire period of application of the “green” tariff by the business entities that have been set a “feed-in” tariff, or the period of validity of support for business entities. The service is purchased for the volume of electricity supplied by electrical facilities from alternative energy sources *(and, in the case of hydropower, generated only by micro-, mini- and small hydropower plants)* and sold under bilateral agreements on the day-ahead market, on the intraday market in each billing period *(hour),* which does not exceed the volume of electricity that can be supplied by the relevant electrical facility or its construction stage *(start-up complex)* in accordance with the installed capacity. The amount of electricity generated and sold in the specified period *(month)* shall be established by deducting the amount of electricity consumed for the own needs of the electrical facility in accordance with the data of the metering devices for own needs.

The purchase of the service under the feed-in premium mechanism is conducted by the transmission system operator on the basis of an agreement for the provision of the service under the feed-in premium mechanism. The cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electrical facility or its construction stage *(start-up complex)* is established in the following order:

1) the billing price is established by selecting the maximum value of two indicators: the weighted average of the price indexes on the day-ahead market for the base load period for the billing month and the month preceding it in the trade zone of Ukraine and the weighted average of the price indexes under bilateral agreements concluded pursuant to subclauses 6 and 6^1 of part two of Article 66 of this Law, except for agreements concluded to execute special obligations to ensure the public interest in the functioning of the electricity market;

2) if, as a result of establishing the billing price in accordance with subclause 1 of this part, the maximum value is the weighted average value of the price indexes on the day-ahead market for the base load period for the billing month and the month preceding it in the trade zone of IPS of Ukraine, the cost of the service under the feed-in premium mechanism for the billing period (month) for each electrical facility or its construction stage (*start-up complex)* shall be established as the sum for the billing period *(month)* of the products of the hourly volume of electricity supplied and sold by the business entity on the day-ahead market, the intraday market and under bilateral agreements, and the difference between the value of the "green" tariff or auction price, taking into account the premium to it, established *(determined)* for an electricity facility or its construction stage *(start-up complex)* in accordance with the Law of Ukraine "On Alternative Energy Sources" and the weighted average price on the day-ahead market for the relevant hour for the billing month and the month preceding it in the trade zone of IPS of Ukraine;

3) if, as a result of establishing the billing price in accordance with subclause 1 of this part, the maximum value is the weighted average of price indexes under bilateral agreements concluded pursuant to subclauses 6 and 6^1 of part two of Article 66 of this Law, except for agreements concluded to execute special obligations to ensure public interest in the functioning of the electricity market, for the billing month and the month preceding it for the period of base load in the trade zone of the IPS of Ukraine, the cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electricity facility or its construction stage *(start-up complex)* is established as the sum for the billing period *(month)* of the products of the hourly volume of electricity supplied and sold by the business entity on the day-ahead market, the intraday market, and under bilateral agreements, and the difference between the amount of the "green" tariff or auction price, taking into account the premium to it, established *(determined)* for the electricity facility or its construction stage *(start-up complex)* in accordance with the Law of Ukraine "On Alternative Energy Sources", and the ratio of the weighted average value of price indexes under bilateral agreements concluded pursuant to subclauses 6 and 61 of part two of Article 66 of this Law except for agreements concluded for the execution of special obligations to ensure the public interest in the functioning of the electricity market, for the billing month and the month preceding it multiplied by the weighted average price on the day-ahead market for the relevant hour for the billing month and the month preceding it in the trade zone of the IPS of Ukraine.

The calculation of the cost of the service under the feed-in premium mechanism provided by the business entities that have been set a "green" tariff if the electrical facility or construction stage *(start-up complex)* of such electricity producer is not in the balancing group of the guaranteed buyer, and business entities that have acquired the right to support based on the results of the auction, shall be carried out by the transmission system operator in accordance with the procedure for establishing the cost and payment for the service under the feed-in premium mechanism provided to the transmission system operator approved by the Regulator.

The cost of the service under the feed-in premium mechanism provided by business entities that have been set a "green" tariff or have acquired the right to support through an auction is approved by the Regulator.

If the amount of the calculated market price in the established period exceeds the amount of the auction price, taking into account the premium to it, established for the relevant electricity facility or its construction stage *(start-up complex),* the business entity that generates electricity at such electricity facility or its construction stage *(start-up complex)* shall pay to the transmission system operator the cost of the service under the feed-in premium mechanism for the electricity supplied by the relevant electricity facility or its construction stage *(start-up complex)* in the established period".

4) in Article 62:
- in subclause 1 of part 2 the words "including support for the generation of electricity from alternative energy sources under the feed-in premium mechanism" shall be removed.
- part two after subclause 5 shall be supplemented with a new subclause 6 as follows:
  "6) purchase of services under the feed-in premium mechanism".
- in paragraph eight of part two, after the words "increase in the share of electricity generation from alternative energy sources", shall be supplemented with words "and special obligations to purchase the service under the feed-in premium mechanism".

5) in Article 65:
- in paragraph one of part one, after the words "at the established "green" tariff, the words "purchase of services under the feed-in premium mechanism provided by business entities that have been set a "green" tariff in respect of electrical facilities or their construction stages *(start-up complexes)* that are not in the balancing group of the guaranteed buyer, and business entities that have acquired the right to support" shall be removed.

- part four of Article 65 shall be removed.
- paragraph two of part five shall be restated as follows:
  "The Guaranteed Buyer shall pay for the cost of electricity purchased at the "green" tariff in accordance with the cost of the purchased volumes of electricity at the "green" tariff."
- paragraph one of part six shall be restated as follows:
  "6. The procedure for the purchase of electricity by the guaranteed buyer at the "green" tariff shall be established by the procedure for the purchase of electricity generated from alternative energy sources by the guaranteed buyer, which shall be approved by the Regulator."
- part 7 shall be restated as follows:
  "7. In order to cover the economically reasonable expenses of the guaranteed buyer for the execution of special obligations to purchase electricity at the "green" tariff, the guaranteed buyer shall provide the transmission system operator with a service for increasing the share of electricity generation from alternative energy sources.

Such a service is provided by the guaranteed buyer during the term of the "green" tariff, in accordance with a model agreement on the provision of services for increasing the share of electricity generation from alternative energy sources, the form of which is approved by the Regulator.

Such service shall be provided by the guaranteed buyer for the volumes of electricity supplied by electricity producers at the "green" tariff established in accordance with part two of this Article.

The cost of the service on the provision of services for increasing the share of electricity generation from alternative sources provided to the transmission system operator by the guaranteed buyer shall be established in the relevant billing period as:

- the difference between the cost of electricity purchased by it pursuant to part two of this Article and its cost when sold under bilateral agreements, on the day-ahead market, intraday market, and balancing market;
- expenses related to the purchase of electricity on the intraday market to reduce imbalances in the guaranteed buyer's electricity;
- expenses related to the settlement of the imbalance of electricity of the guaranteed buyer *(including costs related to the execution of commands of the transmission system operator to reduce the load and operational security commands by electricity producers selling electricity at the "green" tariff),* except for the share of the cost of settling the imbalance of electricity of the balancing group of the guaranteed buyer, which is compensated by electricity producers, electricity facilities, or construction stages *(start-up complexes)* which are included in the balancing group of the guaranteed buyer, and active consumers whose electricity generation facilities are included in the balancing group of the guaranteed buyer;
- expenses specified in the guaranteed buyer's budget for its operations.

The cost of the service for increasing the share of electricity generation from energy sources provided to the transmission system operator by the guaranteed buyer shall be established for the relevant billing period and reduced by:

- income from the sale of guarantees of origin of electricity generated from renewable energy sources *(including under international economic agreements (contracts))* is reduced by the amount of expenses related to the sale of such guarantees of origin;
- income from the sale of electricity under electricity export agreements, reduced by the amount of expenses related to access to the capacity of interstate crossings, taxes, fees and other mandatory payments related to the sale of electricity under electricity export agreements;
- the amount of financial support received from the state budget to execute special obligations for increasing the share of electricity generation from alternative energy sources.

Adjustment of the cost of the service for increasing the share of electricity generation from alternative energy sources shall be made in accordance with the electricity producer for the purchase of electricity generated from alternative energy sources by the guaranteed buyer.

The calculation of the cost of the service for increasing the share of electricity generation from renewable energy sources provided to the transmission system operator by the guaranteed buyer shall be carried out by the guaranteed buyer in accordance with the procedure for the purchase of electricity generated from renewable energy sources by the guaranteed buyer. The cost of the service for increasing the share of electricity generation from renewable energy sources provided to the transmission system operator by the guaranteed buyer shall be approved by the Regulator.

The guaranteed buyer is obliged to allocate the difference between income and expenses that arose during the execution of its special obligations to cover its own expenses for the execution of special obligations for the purchase of electricity at the "green" tariff from business entities whose electricity facilities or construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer, or other special obligations."

- in subclause 3 of part eight the words "or purchases the services under the feed-in premium mechanism" shall be removed.
- subclauses 4, 10, and 12 of part nine shall be removed.
- in part eleven after the words "established as the highest of the "green" tariff values" the words "auction price" and after the word "established" the word "determined" shall be removed.

6) in Article 71:

- paragraph three of part 41 shall be restated as follows:
  "Business entities that generate electricity from alternative energy sources at an electricity facility or the construction stage *(start-up complexes)* and are set a "green" tariff, have the right to conclude a service agreement with the transmission system operator on the provision of services under the feed-in premium mechanism for such facility *(facilities)*, if such facility *(facilities)* is not in the balancing group of the guaranteed buyer."
- in paragraph one of part five the words "guaranteed buyer" shall be replaced with "transmission system operator".
- in paragraph three of part five the words "guaranteed buyer" shall be replaced with "transmission system operator".
- paragraph six of part five shall be restated as follows:
  "In case of selection of the specified procedure for dispute resolution, a business entity that has been set a "green" tariff, when concluding a PPA for the sale of electricity at a "green" tariff, simultaneously undertakes to pay contributions to the guaranteed buyer to establish a special *(trust)* fund intended to cover the arbitration costs of the guaranteed buyer. In case of selection of the specified procedure for dispute resolution, a business entity that has acquired the right to support based on the results of the auction, when concluding a PPA under the feed-in premium mechanism, simultaneously undertakes to pay contributions to the transmission system operator to establish a special *(trust)* fund intended to cover the arbitration costs of the transmission system operator."
- paragraph seven of part five shall be restated as follows:
  "Contributions to the establishment of a special fund for the guaranteed buyer shall be paid during the term of the electricity purchase and sale agreement at the "green" tariff. Regardless of the use of the right to resolve disputes in international arbitration by the business entity to which the "green" tariff is set, the paid contributions are not refunded to the payer. The contributions to the special fund of the transmission system operator shall be paid during the term of the service agreement under the feed-in premium mechanism. Regardless of the use of the right to resolve disputes in international arbitration by the business entity that acquired the right to support as a result of the auction, the paid contributions shall not be refunded to the payer."
- in paragraph eight of part five, after the words "guaranteed buyer's fund", shall be supplemented with "and the special fund of the transmission system operator".
- paragraph ten of part five shall be supplemented with "The funds of the special fund of the transmission system operator shall be of a targeted nature and may be used solely for the expenses of the transmission system operator for the resolution of disputes in arbitration. The use of the special fund of the transmission system operator shall be supervised by the Regulator".

COMPARATIVE TABLE
to the Draft Law of Ukraine "On Amendments to Some Laws of Ukraine regarding the support for the development of alternative energy"

THE WORDING OF THE LAW	WORDING OF THE PROJECT WITH THE PROPOSED CHANGES
THE LAW OF UKRAINE "ON ALTERNATIVE ENERGY SOURCES"	
Article 1. Definition of terms In this Law, the following terms shall have the following meanings: • Feed-in premium mechanism is a system of incentives for the generation of electricity from renewable energy sources, under which the guaranteed buyer pays to business entities that have been set a "green" tariff and business entities that have acquired the right to support based on the results of the auction the difference between the "green" tariff or auction price, including a premium to it, and the billing price established in accordance with the procedure established by the Law of Ukraine "On the Electricity Market";	**Article 1. Definition of terms** In this Law, the following terms shall have the following meanings: • Feed-in premium mechanism – a system of incentives for electricity generation from renewable energy sources, under which the transmission system operator pays to business entities that have been set a "green" tariff and business entities that have acquired the right to support based on the results of the auction the difference between the "green" tariff or auction price, including a premium to it, and the billing price established in accordance with the procedure established by the Law of Ukraine "On the Electricity Market";
Article 9². A surcharge to the "green" tariff and auction price for compliance with the level of use of Ukrainian-made equipment The surcharge for compliance with the level of use of Ukrainian-made equipment established in accordance with this Article for the relevant electrical facility that supplies electricity at an auction price shall be charged in monetary terms by the guaranteed buyer on a monthly basis when calculating the cost of the service for increasing the share of electricity generation from alternative energy sources.	**Article 9². A surcharge to the "green" tariff and auction price for compliance with the level of use of Ukrainian-made equipment** The surcharge for compliance with the level of use of Ukrainian-made equipment established in accordance with this Article for the relevant electrical facility that supplies electricity at an auction price shall be charged in monetary terms by the transmission system operator on a monthly basis when calculating the cost of the service for increasing the share of electricity generation from alternative energy sources.
Article 9³. Incentives for electricity producers from alternative energy sources, which have become eligible for support based on the results of the auction Support of electricity producers from alternative energy sources that have acquired the right to support based on the results of the auction shall be provided by guaranteeing the purchase of the service under the feed-in premium mechanism in the volumes and in the manner established by Article 65 of the Law of Ukraine "On the Electricity Market", at the auction price, taking into account the premium to it established in accordance with Article 9² of this Law, on the basis of an agreement on the provision of the service under the feed-in premium mechanism concluded with the guaranteed buyer. The guaranteed buyer is responsible for organizing and conducting the auctions *(the auctioneer).* To participate in the auction, business entities shall submit a free-form application: • an unconditional and irrevocable bank guarantee provided in favour of the guaranteed buyer;	**Article 9³. Incentives for electricity producers from alternative energy sources, which have become eligible for support based on the results of the auction** Support of electricity producers from alternative energy sources that have acquired the right to support based on the results of an auction is carried out by guaranteeing the purchase of a service under the feed-in premium mechanism in the volumes and in the manner established by the Law of Ukraine "On the Electricity Market", at the auction price, taking into account the premium established in accordance with Article 9² of this Law, on the basis of an agreement concluded with the transmission system operator on the provision of a service under the feed-in premium mechanism. The transmission system operator is responsible for organizing and conducting the auctions *(the auctioneer).* To participate in the auction, business entities shall submit a free-form application: • an unconditional and irrevocable bank guarantee provided in favour of the transmission system operator;

The minutes of the bids disclosure shall be generated automatically and published in electronic form by the electronic trading system on the day of the auction completion. After the guaranteed buyer verifies the documents and information submitted by the participants, but not later than 10 business days from the date of the auction completion, the auction results minutes shall be automatically generated and published in electronic form. The winner of the auction and guaranteed buyer shall sign the minutes and conclude an agreement on the provision of services under the feed-in premium mechanism no later than 15 business days from the date of publication of the auction results, after which guaranteed buyer shall publish such an agreement in the electronic trading system. In case of refusal of the auction winner to sign the auction results minutes and conclude an agreement with by the guaranteed buyer, the electronic trading system shall automatically generate and publish a new auction result minutes. The fact of the auction winner's refusal to sign the auction results minutes and enter into an agreement with the guaranteed buyer shall be confirmed by an act drawn up and published in the electronic trading system by the guaranteed buyer. The winner of the auction who refused to sign the auction results minutes or conclude an agreement with the guaranteed buyer shall be deprived of the right to participate in further auctions for a period of one year from the date of publication of the relevant act in the electronic trading system by the guaranteed buyer.	The minutes of bids disclosure shall be generated automatically and published in electronic form by the electronic trading system on the day of the auction completion. After verification by the transmission system operator of the documents and information submitted by the participants, but not later than 10 business days from the date of the auction completion, the minutes of the auction results shall be automatically generated and published in electronic form. The winner of the auction and the transmission system operator shall sign the minutes and conclude an agreement on the provision of services under the feed-in premium mechanism no later than 15 business days from the date of publication of the auction results, after which the transmission system operator shall publish such an agreement in the electronic trading system. In case of refusal of the auction winner to sign the auction, results minutes and conclude an agreement with the transmission system operator, the electronic trading system shall automatically generate and publish a new auction result minutes. The fact of the auction winner's refusal to sign the auction results minutes and conclude an agreement with the transmission system operator shall be confirmed by an act drawn up and published in the electronic trading system by the transmission system operator. The winner of the auction who refused to sign the minutes on the auction results or conclude an agreement with the transmission system operator shall be deprived of the right to participate in further auctions for a period of one year from the date of publication of the relevant act in the electronic trading system by the transmission system operator.
The guaranteed buyer may only refuse to sign the minutes on the auction results and conclude an agreement with the auction winner: • failure of a business entity to submit documents or information established by this Law and the procedure for holding auctions for the distribution of the support quota; • if the business entity provides false information in documents or information or if their content does not meet the requirements established by this Law and the procedure for holding auctions for the distribution of the support quota; • failure to disclose or incomplete disclosure of information about the ultimate beneficial owners by a business entity; • if the business entity or members of its management bodies, as well as other persons related to the business entity by control relations, are subject to special economic and other restrictive measures *(sanctions)* in accordance with the Law of Ukraine "On Sanctions" and regulations established in accordance with the said Law; • if, based on the results of the auctions held in the relevant year, the business entity, independently or together with other business entities with which it has a common ultimate beneficial owner *(controller)*, acquires the right to more than 25 percent of the annual support quota for the relevant year.	The transmission system operator may only refuse to sign the minutes on the auction results and conclude an agreement with the auction winner: • failure of a business entity to submit documents or information established by this Law and the procedure for holding auctions for the distribution of the support quota; • if the business entity provides false information in documents or information or if their content does not meet the requirements established by this Law and the procedure for holding auctions for the distribution of the support quota; • failure to disclose or incomplete disclosure of information about the ultimate beneficial owners by a business entity; • if the business entity or members of its management bodies, as well as other persons related to the business entity by control relations, are subject to special economic and other restrictive measures *(sanctions)* in accordance with the Law of Ukraine "On Sanctions" and regulations established in accordance with the beforementioned Law; • if, based on the results of the auctions held in the relevant year, the business entity, independently or together with other business entities with which it has a common ultimate beneficial owner *(controller)*, acquires the right to more than 25 percent of the annual support quota for the relevant year.

If the guaranteed buyer refuses to sign the auction results minutes and conclude an agreement with the winner, the guaranteed buyer shall draw up a relevant act stating the grounds for such refusal and publish it in the electronic trading system, after which the electronic trading system shall automatically generate and publish a new auction results minutes.	If the transmission system operator refuses to sign the auction results minutes and conclude an agreement with the winner, the transmission system operator shall draw up a relevant act stating the grounds for such refusal and publish it in the electronic trading system, after which the electronic trading system shall automatically generate and publish a new auction results minutes.
In case the winner of the auction or the guaranteed buyer refuses to sign the minutes on the auction results or conclude a service agreement under the feed-in premium mechanism, the unconditional and irrevocable bank guarantee provided by the winner to participate in the auction shall be executed in favour of the guaranteed buyer.	In case the winner of the auction or the transmission system operator refuses to sign the minutes on the results ofthe auction or conclude a service agreement under the feed-in premium mechanism, the unconditional and irrevocable bank guarantee provided by the winner to participate in the auction shall be executed in favour of the transmission system operator.
The unconditional and irrevocable bank guarantee provided for participation in the auction shall be returned to business entities that did not qualify for support based on the results of the auction within five business days from the date of publication in the electronic trading system of the agreements concluded between the guaranteed buyer and the auction winners, but no later than 30 business days after the auction is completed.	The unconditional and irrevocable bank guarantee provided for participation in the auction shall be returned to business entities that did not qualify for support based on the results of the auction within five business days from the date of publication in the electronic trading system of the agreements concluded between the transmission system operator and the auction winners, but no later than 30 business days after the auction is completed.
The unconditional and irrevocable bank guarantee provided for participation in the auction shall be returned to the auction winner within five business days from the date of publication in the electronic trading system of the agreement concluded between by the guaranteed buyer and the auction winner.	The unconditional and irrevocable bank guarantee provided for participation in the auction shall be returned to the auction winner within five business days from the date of publication in the electronic trading system of the agreement concluded between the transmission system operator and the auction winner.
Prior to concluding an agreement with the guaranteed buyer, the auction winner shall provide an unconditional and irrevocable bank guarantee issued in favour of the guaranteed buyer as security for execution of obligations under the agreement. The amount of the unconditional and irrevocable bank guarantee issued as a security for the execution of obligations under the agreement is EUR 15 for each kilowatt of capacity.	Prior to concluding an agreement with the transmission system operator, the auction winner shall provide an unconditional and irrevocable bank guarantee issued in favour of the transmission system operator as security for execution of obligations under the agreement. The amount of the unconditional and irrevocable bank guarantee issued as a security for the execution of obligations under the agreement is EUR 15 for each kilowatt of capacity.
A service agreement under the feed-in premium mechanism shall be concluded in accordance with part five of Article 71 of the Law of Ukraine “On the Electricity Market” for the period of support established by this Article.	A service agreement under the feed-in premium mechanism shall be concluded in accordance with part five of Article 71 of the Law of Ukraine “On the Electricity Market” for the period of support established by this Article.
In accordance with the agreement for the provision of services under the feed-in premium mechanism, the guaranteed buyer guarantees the purchase of services under the feed-in premium mechanism using the auction price with a premium to it established in accordance with Article 9^2 of this Law.	In accordance with the agreement for the provision of services under the feed-in premium mechanism, the transmission system operator guarantees the purchase of services under the feed-in premium mechanism using the auction price with a premium to it established in accordance with Article 9^2 of this Law.
The guaranteed buyer shall not be entitled to refuse to conclude an agreement with the winner of the auction, provided that the winner complies with the requirements of this Law.	The transmission system operator shall not be entitled to refuse to conclude an agreement with the winner of the auction, provided that the winner complies with the requirements of this Law.

The agreement must provide for the winner of the auction's obligation to construct and commission the electricity facility within 18 months from the date of the agreement's conclusion for electricity facilities that generate electricity from solar energy and within 36 months from the date of the agreement's conclusion for electricity facilities that generate electricity from other types of alternative energy sources. Not later than six months from the date of conclusion of the relevant agreement, the business entity shall provide with a copy of the documents certifying the right of ownership or use of the land plot, or a copy of the superficies agreement for the construction of the electricity facility for the generation of electricity from alternative energy sources, including the relevant construction stage *(start-up complex)*, or a copy of the documents certifying the right of ownership or use of the real estate object or part thereof, in case of establishment of the If the business entity fails to provide the relevant documents within the period established by this Article, the service agreement under the feed-in premium mechanism shall be invalid, and the obligations under the unconditional and irrevocable bank guarantee shall be fulfilled in favour of the guaranteed buyer upon its request.	The agreement must provide for the winner of the auction's obligation to construct and commission the electricity facility within 18 months from the date of the agreement's conclusion for electricity facilities that generate electricity from solar energy and within 36 months from the date of the agreement's conclusion for electricity facilities that generate electricity from other types of alternative energy sources. No later than six months from the date of conclusion of the relevant agreement, the business entity shall provide the transmission system operator with a copy of the documents certifying the right of ownership or use of the land plot, or a copy of the superficies agreement for the construction of the electricity facility for the generation of electricity from alternative energy sources, including the relevant construction stage *(start-up complex)*, or a copy of the documents certifying the right of ownership or use of the real estate object or part thereof, in case of facility in case the business entity fails to provide the relevant documents within the period established by this Article, the service agreement under the feed-in premium mechanism shall be invalid, and the obligations under the unconditional and irrevocable bank guarantee shall be fulfilled in favour of the transmission system operator upon its request.
The business entity shall provide with a document confirming the fact of providing the service of connection of the electricity facility or its construction stage *(start-up complex)* to the transmission or distribution system, issued in accordance with the requirements of the transmission system code or the distribution system code, and a certificate issued by the authorised body certifying the compliance of the completed electricity facility, including its construction stage *(start-up complex)*, which generates electricity from alternative energy sources *(except for blast furnace and coke oven gases, and with the use of hydropower-only micro and small hydropower plants)* project documentation and confirms its readiness for operation, or a declaration of readiness for operation registered pursuant to the law.	The business entity shall provide the transmission system operator with a document confirming the fact of providing the service of connection of the electricity facility or its construction stage *(start-up complex)* to the transmission or distribution system, issued in accordance with the requirements of the transmission system code or the distribution system code, and a certificate issued by the authorised body certifying the compliance of the completed electricity facility, including its construction stage *(start-up complex)*, producing electricity from alternative sources *(except for blast furnace and coke oven gases, and with the use of hydropower - only micro and small hydropower plants)* project documentation and confirms its readiness for operation, or a declaration of readiness for operation registered pursuant to the law.
The unconditional and irrevocable bank guarantee provided by the business entity as security for the execution of obligations under the agreement shall be returned to by the guaranteed buyer within 10 business days, provided that the documents specified in the first sentence of this part are provided. The Guaranteed Buyer obligations related to the support of the business entity that generates electricity from alternative energy sources shall arise from the day following the day when the business entity submits the documents specified in the first sentence of this part.	The unconditional and irrevocable bank guarantee provided by a business entity as a security for execution of obligations under the agreement shall be returned by the transmission system operator within 10 business days, provided that the documents specified in the first sentence of this part are provided. The transmission system operator's obligations related to the support of a business entity that generates electricity from alternative energy sources shall arise from the day following the day when the business entity submits the documents specified in the first sentence of this part.

In case the business entity has not provided a document confirming the fact of provision of the service for connection of the electrical facility or its construction stage *(start-up complex)* to the transmission or distribution system issued in accordance with the requirements of the transmission system code or the distribution system code, as well as a certificate confirming the facility's readiness for operation or a declaration of the facility's readiness for operation within the period established by this Article, the agreement for provision of the service under the feed-in premium mechanism shall be invalid, the obligation for unconditional and irrevocable bank guarantee are executed in favour of the guaranteed buyer upon his request. In the event of force majeure circumstances, the obligations of the business entity regarding the period of construction and commissioning of the electrical facility established by this Article shall be extended for the period of force majeure circumstances, provided that the fact of their occurrence and validity is confirmed in accordance with the procedure established by law. Payment for the cost of the feed-in premium service provided by business entities that have acquired the right to support based on the results of the auction shall be made on a monthly basis, no later than the 25th day of the month following the billing period *(month)*. When determining the value of the feed-in premium service purchased by under the market feed-in service agreement, the auction price or its share fixed in euros shall be converted by into the national currency by the guaranteed buyer at the average official exchange rate of the National Bank of Ukraine for the billing period *(month)*. If there is a part of the auction price fixed in the national currency, it shall be determined at the official exchange rate of the National Bank of Ukraine as of the date of the agreement conclusion.	In case the business entity has not provided a document confirming the fact of provision of the service for connection of the electrical facility or its construction stage *(start-up complex)* to the transmission or distribution system issued in accordance with the requirements of the transmission system code or the distribution system code, as well as a certificate confirming the facility's readiness for operation within the period established by this Article, the agreement for provision of the service under the feed-in premium mechanism shall be invalid, the obligation for unconditional and irrevocable bank guarantee are executed in favour of the transmission system operator upon his request. In the event of force majeure circumstances, the obligations of the business entity regarding the period of construction and commissioning of the electrical facility established by this Article shall be extended for the period of force majeure circumstances, provided that the fact of their occurrence and validity is confirmed in accordance with the procedure established by law. Payment for the cost of the feed-in premium service provided by business entities that have acquired the right to support based on the results of the auction shall be made on a monthly basis, no later than the 25th day of the month following the billing period *(month)*. When determining the cost of the feed-in premium service purchased by the transmission system operator under the feed-in premium service agreement, the auction price or its share fixed in euros shall be converted by the transmission system operator into the national currency at the average official exchange rate of the National Bank of Ukraine for the billing period *(month)*. If there is a part of the auction price fixed in national currency, it shall be determined at the official exchange rate of the National Bank of Ukraine as of the date of the agreement conclusion.
Article 9^{7}. Guarantee of origin of electricity generated from renewable energy sources Guarantees of origin of electricity generated from renewable energy sources issued for the volume of electricity generated at electricity facilities or their construction stages *(start-up complexes)* of electricity producers and at generating facilities of active consumers, which was sold to the guaranteed buyer under the "green" tariff or in respect of which the service is provided under the feed-in premium mechanism, shall become the property of the guaranteed buyer simultaneously with the purchase and sale of such volume of electricity. The guarantee of the origin of electricity generated from renewable energy sources is a component of the purchase and sale of electricity under the "green" tariff and is included in the cost of such electricity purchased by the guaranteed buyer.	**Article 9^{7}. Guarantee of origin of electricity generated from renewable energy sources** Guarantees of origin of electricity generated from renewable energy sources issued for the volume of electricity generated at electricity facilities or their construction stages *(start-up complexes)* of electricity producers and at generating facilities of active consumers, which was sold to the guaranteed buyer under the "green" tariff, shall become the property of the guaranteed buyer simultaneously with the purchase and sale of such volume of electricity. The guarantee of origin of electricity generated from renewable energy sources is a component of the purchase and sale of electricity under the "green" tariff and is included in the cost of such electricity purchased by the guaranteed buyer.

Guarantees of origin of electricity generated from renewable energy sources generated by generating facilities of private households with an installed capacity not exceeding 50 kW, in the amount sold to a universal service provider under the "green" tariff, shall become the property of the relevant universal service provider simultaneously with the purchase and sale of such electricity. The guarantee of the origin of electricity generated from renewable energy sources is a component of the purchase and sale of electricity under the feed-in tariff and is included in the cost of such electricity purchased by the universal service provider under the feed-in tariff.	Guarantees of origin of electricity generated from renewable energy sources issued for the volume of electricity generated at electricity facilities or their construction stage *(start-up complexes)* of electricity producers in respect of which the service is provided under the feed-in premium mechanism shall become the property of the transmission system operator simultaneously with the acceptance of the transmission of the service under the feed-in premium mechanism. The guarantee of the origin of electricity generated from renewable energy sources is a component of the feed-in premium service and is included in the cost of such service purchased by the transmission system operator. Guarantees of origin of electricity generated from renewable energy sources generated by generating facilities of private households with an installed capacity not exceeding 50 kW, in the amount sold to a universal service provider under the "green" tariff, shall become the property of the relevant universal service provider simultaneously with the purchase and sale of such electricity. The guarantee of the origin of electricity generated from renewable energy sources is a component of the purchase and sale of electricity under the "green" tariff and is included in the cost of such electricity purchased by the universal service provider under the "green" tariff.
Guaranteed buyer and universal service provider have the right to alienate guarantees of origin of electricity generated from renewable energy sources separately from electricity purchased by them under the "green" tariff or when purchasing services under the feed-in premium mechanism.	Guaranteed buyer, transmission system operator and universal service provider have the right to alienate guarantees of origin of electricity generated from renewable energy sources separately from electricity purchased by them under the "green" tariff or when purchasing services under the feed-in premium mechanism.
THE LAW OF UKRAINE "ON ELECTRICITY MARKET"	
Article 1. Definition of terms 1. In this Law, the following terms shall have the following meanings: 16) guaranteed buyer of electricity *(hereinafter referred to as the guaranteed buyer)* – a business entity that, in accordance with this Law, is obliged to purchase electricity from electricity producers who have been set a "green" tariff, whose electrical facilities or construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer, and to purchase a service to support the generation of electricity from alternative sources under the feed-in premium mechanism *(service under the feed-in premium mechanism)* from electricity producers who have concluded a service agreement with it to provide support for the production of electricity from alternative sources under the feed-in premium mechanism *(feed-in premium service agreement);* 55) transmission system operator – a legal entity responsible for the operation, dispatching, maintenance, development of the transmission system and interstate transmission lines, as well as for ensuring the long-term capacity of the transmission system to meet the reasonable demand for electricity transmission;	**Article 1. Definition of terms** 1. In this Law, the following terms shall have the following meanings: 16) guaranteed buyer of electricity *(hereinafter referred to as the guaranteed buyer)* – a business entity that, in accordance with this Law, is obliged to purchase electricity from electricity producers who have been granted a "green" tariff, whose electrical facilities or construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer, as well as to execute other functions determined by law; 55) transmission system operator – a legal entity responsible for the operation, dispatching, maintenance, development of the transmission system and interstate transmission lines, as well as for ensuring the long-term capacity of the transmission system to meet the reasonable demand for electricity transmission, as well as for the purchase of the service to support the generation of electricity from alternative sources under the feed-in premium mechanism *(service under the feed-in premium mechanism)* from electricity producers who have concluded a service agreement with it to provide support for the production of electricity from alternative sources under the feed-in premium mechanism *(feed-in premium service agreement);*

Article 33. Functions, rights and obligations of the transmission system operator 3. The transmission system operator shall: 1) comply with the licensing conditions for conducting business activities in electricity transmission and other regulatory acts governing the functioning of the electricity market; 2) provide notifications on the contractual volumes of electricity purchase and sale under bilateral agreements in accordance with the procedure established by the market rules; 3) draw up daily electricity schedules to compensate for the technological costs of electricity transmission by electricity grids on the day of delivery based on registered notifications of contractual volumes of electricity purchase and sale in accordance with market rules; 4) buy/sell electricity imbalances at prices determined in accordance with the market rules in case of failure to comply with hourly electricity schedules in order to compensate for the technological costs of electricity transmission by electricity networks; 5) when applying the procedure for changing/replacing an electricity supplier, provide the new electricity supplier with information on consumers connected to the transmission system to whom the previous electricity supplier supplied, in the amounts and in the manner determined by the Regulator; 6) enter into agreements that are mandatory for conducting activities in the electricity market and fulfill the terms of these agreements; 7) publish on its official website information in accordance with this Law, market rules, the transmission system code and other information provided for by law;	**Article 33. Functions, rights and obligations of the transmission system operator** 3. The transmission system operator shall: 1) comply with the licensing conditions for conducting business activities in electricity transmission and other regulatory legal acts governing the functioning of the electricity market; 2) provide notifications on the contractual volumes of purchase and sale of electricity under bilateral agreements in accordance with the procedure established by the market rules; 3) draw up daily electricity schedules to compensate for the technological costs of electricity transmission by electricity grids on the day of delivery based on registered notifications of contractual volumes of electricity purchase and sale in accordance with market rules; 4) buy/sell electricity imbalances at prices determined in accordance with the market rules in case of failure to comply with hourly electricity schedules in order to compensate for the technological costs of electricity transmission by electricity networks; 5) when applying the procedure for changing/replacing an electricity supplier, provide the new electricity supplier with information on consumers connected to the transmission system to whom the previous electricity supplier supplied, in the amounts and in the manner determined by the Regulator; 6) enter into agreements that are mandatory for conducting activities in the electricity market and fulfill the terms of these agreements; 7) publish on its official website information in accordance with this Law, market rules, the transmission system code and other information provided for by law;
8) store information necessary for analysing the quality of electricity supply services, in particular information on the reliability of electricity supply, quality of electricity, commercial quality of service provision, in accordance with the procedure established by the Regulator; 9) provide reimbursement *(compensation)* to the system user in case of non-compliance by the transmission system operator with the quality of service indicators specified in the transmission service agreement and the Regulator; 10) provide the Regulator with information necessary for the exercise of its statutory functions and powers; 11) have a system for monitoring the operation of the ancillary services market and the balancing market, allocation of cross-border capacity and execution of other functions provided for by this Law, and to notify the Regulator of the results of its operation in accordance with the procedure established by it immediately, but no later than the next business day, in case of reasonable grounds to believe that operations with wholesale energy products were carried out in violation of the established restrictions on the handling of insider information or such operations have signs of manipulation or attempts to manipulate the electricity market, such operations shall be reported in accordance with the procedure established by the Regulator.	8) store information necessary for analysing the quality of electricity supply services, in particular information on the reliability of electricity supply, quality of electricity, commercial quality of service provision, in accordance with the procedure established by the Regulator; 9) provide reimbursement *(compensation)* to the system user in case of non-compliance by the transmission system operator with the quality of service indicators specified in the transmission service agreement and the Regulator; 10) provide the Regulator with information necessary for the exercise of its statutory functions and powers; 11) have a system for monitoring the operation of the ancillary services market and the balancing market, allocation of cross-border capacity and execution of other functions provided for by this Law, and to notify the Regulator of the results of its operation in accordance with the procedure established by it immediately, but no later than the next business day, in case of reasonable grounds to believe that operations with wholesale energy products were carried out in violation of the established restrictions on the handling of insider information or such operations have signs of manipulation or attempts to manipulate the electricity market, such operations shall be reported in accordance with the procedure established by the Regulator.

A transmission system operator is a person who professionally organises operations with wholesale energy products in the electricity market, as well as is a data transmission administrator and an administrator of an insider information platform. The transmission system operator shall suspend the functions of the data transmission administrator and the insider information platform administrator in case of non-compliance with the requirements established by the Regulator for such administrators, based on the Regulator's resolution on such non-compliance. The functions of the data transmission administrator and the insider information platform administrator shall be resumed after the discrepancies that became the basis for the suspension of the functions have been eliminated; 11) to open a current account with an authorised bank with a special mode of use for making payments in accordance with this Law; 12) to keep separate records of expenses and income from electricity transmission activities and dispatch *(operational and technological)* control activities; 13) to keep separate records of expenses and revenues related to the execution of special duties to ensure the public interest in the operation of the electricity market; 14) to provide the information necessary for the implementation of the compensation mechanism in the relations between transmission system operators to the organization responsible for the functioning of such a mechanism;	A transmission system operator is a person who professionally organises operations with wholesale energy products in the electricity market, as well as is a data transmission administrator and an administrator of an insider information platform. The transmission system operator shall suspend the functions of the data transmission administrator and the insider information platform administrator in case of noncompliance with the requirements established by the Regulator for such administrators, based on the Regulator's resolution on such non-compliance. The functions of the data transmission administrator and the insider information platform administrator shall be resumed after the discrepancies that became the basis for the suspension of the functions have been eliminated; 11) to open a current account with an authorised bank with a special mode of use for making payments in accordance with this Law; 12) to keep separate records of expenses and income from electricity transmission activities and dispatch *(operational and technological)* control activities; 13) to keep separate records of expenses and revenues related to the execution of special duties to ensure the public interest in the operation of the electricity market; 14) to provide the information necessary for the implementation of the compensation mechanism in the relations between transmission system operators to the organization responsible for the functioning of such a mechanism;
15) to ensure the avoidance of conflicts of interest when executing the functions of dispatch *(operational and technological)* control, electricity transmission, billing administrator and commercial metering administrator in accordance with the program of measures to prevent conflicts of interest developed by it and approved by the Regulator; 17) to terminate the electricity supply to the consumer at the request of the electricity supplier in accordance with the procedure established by the transmission system code; 18) to restore electricity supply to the consumer at the request of the electricity supplier in accordance with the procedure established by the transmission system code; 19) to provide information for the registration of generating facilities connected to the transmission system of active consumers who sell electricity at a "green" tariff to a guaranteed buyer or universal service provider in order to obtain guarantees of the origin of electricity generated from renewable energy sources, as well as to inspect such generating facilities in accordance with the procedure established by the Cabinet of Ministers of Ukraine.	15) to ensure the avoidance of conflicts of interest when executing the functions of dispatch *(operational and technological)* control, electricity transmission, billing administrator and commercial metering administrator in accordance with the program of measures to prevent conflicts of interest developed by it and approved by the Regulator; 16) to comply with binding regulatory documents of the central executive body that implements the state policy in the field of supervision *(control)* in the electricity sector; 17) to terminate the electricity supply to the consumer at the request of the electricity supplier in accordance with the procedure established by the transmission system code; 18) to restore electricity supply to the consumer at the request of the electricity supplier in accordance with the procedure established by the transmission system code; 19) to provide information for the registration of generating facilities connected to the transmission system of active consumers who sell electricity at a "green" tariff to a guaranteed buyer or universal service provider in order to obtain guarantees of the origin of electricity generated from renewable energy sources, as well as to inspect such generating facilities in accordance with the procedure established by the Cabinet of Ministers of Ukraine;

	20) to systematise commercial metering data on the actual volumes of electricity supplied by electricity producers from whom the transmission system operator purchases services under the feed-in premium mechanism; 21) to purchase from electricity producers who have been set a «green»tariff, if the electrical facilities or their construction stages *(start-up complexes)* are not in the balancing group of the guaranteed buyer and a service agreement has been concluded for such facilities under the feed-in premium mechanism, and electricity producers who have acquired the right to support based on the results of the auction, a service under the feed-in premium mechanism to ensure an increase in the share of energy generation from alternative energy sources, if such electricity producers have concluded a service agreement with the mechanism 22) to organise auctions for the distribution of support quotas in accordance with Article 93 of the Law of Ukraine "On Alternative Energy Sources"; 23) to timely and in full pay for the service approved by the Regulator under the feed-in premium mechanism provided by electricity producers who have been set a "green" tariff or who have acquired the right to support based on the results of the auction.
No provision	**Article 33[1]. Purchase of services under the feed-in premium mechanism.** 1. The transmission system operator is obliged to purchase the service under the feed-in premium mechanism from the business entities that have been set a "green" tariff, if such an electrical facility or construction stage *(start-up complex)* of such an electricity producer is not in the balancing group of the guaranteed buyer, and from the business entities that have acquired the right to support by the results of the auction, during the entire period of application of the " green" tariff by the business entities that have been set a "green" tariff, or the period of validity of support for the business entities, which, based on the results of the auction, have acquired the right to support, provided that such business entities have concluded a service agreement with the transmission system operator under the feed-in premium mechanism. The service is purchased for the volume of electricity supplied by electrical facilities from alternative energy sources *(and, in the case of hydropower, generated only by micro-, mini and small hydropower plants)* and sold under bilateral agreements, on the day-ahead market, on the intraday market in each billing period *(hour),* which does not exceed the volume of electricity that can be supplied by the relevant electrical facility or its construction stage *(start-up complex)* in accordance with the installed capacity specified in the license for electricity production. The volume of electricity produced and sold in the specified period *(month)* shall be determined by deducting the amount of electricity consumed for the auxiliary electricity needs of the relevant electrical facility in accordance with the data of electricity metering devices. The transmission system operator shall purchase the service under the feed-in premium mechanism based on an agreement for the provision of the service under the feed-in premium mechanism.

	The cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electrical facility or its construction stage *(start-up complex)* is determined in the following order: 1) the billing price is determined by selecting the maximum value of two indicators: the weighted average of the price indices on the day ahead market for the base load period for the billing month and the month preceding it in the trade zone of the IPS of Ukraine and the weighted average of the price indices under bilateral agreements concluded pursuant to subclause 6 and 6[1] of part two of Article 66 of this Law, except for agreements concluded to fulfill special obligations to ensure the public interest in the functioning of the electricity market for the billing month and the month preceding it for the base load period in the trade zone of the IPS of Ukraine; 2) if, as a result of determining the billing price in accordance with subclause 1 of this part, the maximum value is the weighted average value of the price indices on the day-ahead market for the base load period for the billing month and the month preceding it in the trade zone of the IPS of Ukraine, the cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electrical facility or its construction stage *(start-up complex)* shall be determined as the sum for the billing period *(month)* of the products of the hourly volume of electricity supplied and sold by the business entity on the day-ahead market, the intraday market and under bilateral agreements, and the difference between the amount of the "green" tariff or auction price, taking into account the premium to it, established *(determined)* for the electrical facility or its construction stage *(start-up complex)* in accordance with the Law of Ukraine "On Alternative Energy Sources" and the weighted average price on the day-ahead market for the relevant hour for the billing month and the month preceding it in the trade zone of the IPS of Ukraine. 3) if, as a result of determining the billing price in accordance with subclause 1 of this part, the maximum value is the weighted average value of price indices under bilateral agreements concluded pursuant to subclauses 6 and 6[1] of part two of Article 66 of this Law, except for agreements concluded to execute special obligations to ensure public interests in the functioning of the electricity market, for the billing month and the month preceding it, for the period of base load in the trade zone of the IPS of Ukraine, the cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electricity facility or its construction stage *(start-up complex)* is determined as the sum of the products of the hourly volume of electricity for the billing period *(month)*, supplied and sold by the business entity on the day-ahead market, the intraday market and under bilateral agreements, and the difference between the amount of the "green" tariff or auction price, taking into account the premium to it, established (determined) for the electricity facility or its construction stage *(start-up complex)*.

	In accordance with the Law of Ukraine "On Alternative Energy Sources", and the ratio of the weighted average value of price indices under bilateral agreements concluded pursuant to subclauses 6 and 61 of part two of Article 66 of this Law, except for agreements concluded to fulfill special obligations to ensure the public interest in the functioning of the electricity market, for the billing month and the month preceding it, for the base load period in the trade zone of IPS of Ukraine, to the weighted average value of the day-ahead market price indices for the base load period in the trade zone of IPS of Ukraine for the billing month and the month preceding it, multiplied by the weighted average price in the day-ahead market for the corresponding hour for the billing month and the month preceding it in the trade zone of IPS of Ukraine. The calculation of the cost of the service under the feed-in premium mechanism provided by business entities that have been granted a "feed-in" tariff, if the electrical facility or construction stage *(start-up complex)* of such electricity producer is not in the balancing group of the guaranteed buyer, and business entities that have acquired the right to support based on the results of the auction, shall be carried out by the transmission system operator in accordance with the procedure for determining the cost and payment for the service under the feed-in premium mechanism provided to the transmission system operator approved by the Regulator. The amount of the cost of the service under the feed-in premium mechanism provided by business entities that have been set a "green" tariff or have acquired the right to support through an auction is approved by the Regulator. If the amount of the calculated market price in the established period exceeds the amount of the auction price, taking into account the premium to it, established for the relevant electrical facility or its construction stage *(start-up complex)*, the business entity that generates electricity at such electrical facility or its construction stage (start-up complex) shall pay the transmission system operator the cost of the service under the feed-in premium mechanism for the electricity supplied by the relevant electrical facility, its construction stage *(start-up complex)* within a specified period.
Article 62. Special obligations to ensure public interests in the functioning of the electricity market 2. The special obligations imposed on electricity market participants in accordance with this Law to ensure public interests in the functioning of the electricity market include, in particular, the following: 1) ensuring an increase in the share of electricity generation from alternative energy sources, including support for electricity generation from alternative energy sources through the feed-in premium mechanism; 2) executing the functions of a universal service provider; 3) acting as a supplier of last resort; 4) providing services to support the development of generating capacities; 5) improving the efficiency of combined electricity and heat generation.	**Article 62. Special obligations to ensure public interests in the functioning of the electricity market** 2. The special obligations imposed on electricity market participants in accordance with this Law to ensure public interests in the functioning of the electricity market include the following: 1) ensuring an increase in the share of electricity generation from alternative energy sources, including support for electricity generation from alternative energy sources through the feed-in premium mechanism; 2) executing the functions of a universal service provider; 3) acting as a supplier of last resort; 4) providing services to support the development of generating capacities; 5) improving the efficiency of combined electricity and heat generation; 6) purchasing the services under the feed-in premium mechanism.

Special responsibilities for ensuring an increase in the share of electricity generation from alternative energy sources are assigned to: • a guaranteed buyer; • universal service providers; • transmission system operator; • producers of electricity from alternative energy sources that have been granted a "green" tariff for the period of application of the "green" tariff; • electricity producers from alternative energy sources that have become eligible for support based on the results of the auction – for the duration of support for such electricity producers.	Special obligations to ensure an increase in the share of electricity generation from alternative energy sources and special obligations to purchase the service under the feed-in premium mechanism are assigned to: • a guaranteed buyer; • universal service providers; • transmission system operator; • producers of electricity from alternative energy sources that have been granted a "green" tariff for the period of application of the "green" tariff; • electricity producers from alternative energy sources that have become eligible for support based on the results of the auction – for the duration of support for such producers.
Article 65. Guaranteed Buyer 1. The Cabinet of Ministers of Ukraine, in order to ensure the public interest and fulfill the state guarantees for the purchase of all electricity generated at electrical facilities using alternative energy sources *(and, in the case of hydropower, only electricity generated by micro, mini- and small hydropower plants)* at the established "green" tariff, purchase of services under the feed-in premium mechanism provided by business entities that have been granted a "green" tariff for electrical facilities or their construction stages *("green" tariff)*. Financing of the guaranteed buyer's activities is carried out within the budget approved by the Regulator.	**Article 65. Guaranteed Buyer** 1. The Cabinet of Ministers of Ukraine, in order to ensure the public interest and fulfill the state guarantees for the purchase of all electricity generated at electrical facilities using alternative energy sources *(and, in the case of hydropower, generated only by micro, mini- and small hydropower plants)* at the established "green" tariff, determines a public sector business entity to execute the functions of a guaranteed buyer of electricity. Financing of the guaranteed buyer's activities is carried out within the budget approved by the Regulator.
4. The Guaranteed Buyer is obliged to purchase the service under the feed-in premium mechanism from the business entities that have been set a "green" tariff, if such an electricity facility or a construction stage *(start-up complex)* of such an electricity producer is not in the balancing group of the Guaranteed Buyer, and from the business entities that have acquired the right to support based on the results of the auction, during the entire period of application of the "green" tariff by the business entities that have been set a "green" tariff or the period of validity of support for business entities. The service is purchased for the amount of electricity supplied by electricity facilities from alternative energy sources *(and, in the case of hydropower, only generated by micro-, mini- and small hydroelectric power plants)* and sold under bilateral agreements, on the day-ahead market, on the intraday market in each billing period *(hour)*, which does not exceed the amount of electricity that can be supplied by the relevant electrical facility or its construction stage *(start-up complex)* in accordance with the installed capacity The amount of electricity generated and sold in the specified period *(month)* shall be determined by deducting the amount of electricity consumed for the auxiliary electricity needs of the relevant electricity facility in accordance with the readings of auxiliary electricity metering devices. The purchase of a service under the feed-in premium mechanism is made by the guaranteed buyer on the basis of an agreement for the provision of a service under the feed-in premium mechanism. The cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electrical facility or its construction stage *(start-up complex)* is determined in the following sequence.	Exclude

1) the billing price is determined by selecting the maximum value of two indicators: the weighted average of the price indices on the day-ahead market for the base load period for the billing month and the month preceding it in the trade zone of IPS of Ukraine and the weighted average of the price indices under bilateral agreements concluded pursuant to paragraphs 6 and 61 of part two of Article 66 of this Law, except for agreements concluded to fulfill special obligations to ensure the public interest in the course of operation of the electricity market for the billing month and the month preceding it for the base load period in the trade zone of IPS of Ukraine;	
2) if, as a result of determining the billing price in accordance with subclause 1 of this part, the maximum value is the weighted average value of the price indices on the day-ahead market for the base load period for the billing month and the month preceding it in the trade zone of IPS of Ukraine, the cost of the service under the feed-in premium mechanism for the billing period *(month)* for each electricity facility or its construction stage *(start-up complex)* shall be determined as the sum for the billing period *(month)* of the products of the hourly volume of electricity supplied and sold by the business entity on the day-ahead market, the intraday market and under bilateral agreements, and the difference between the amount of the “green” tariff or auction price, taking into account the premium to it, established *(determined)* for the electricity facility or its construction phase *(startup complex)* in accordance with the Law of Ukraine ‘On Alternative Energy Sources’ and the weighted average price on the day-ahead market for the relevant hour for the billing month and the month preceding it in the trade zone of IPS of Ukraine;	
3) if, as a result of determining the billing price in accordance with subclause 1 of this part, the maximum value is the weighted average value of price indices under bilateral agreements concluded pursuant to subclauses 6 and 6^1 of part two of Article 66 of this Law, except for agreements concluded to fulfill special obligations to ensure public interests in the functioning of the electricity market, for the billing month and the month preceding it, for the period of base load in the trade zone of the IPS of Ukraine to the weighted average value of the day-ahead market price indices for the base load period in the trade zone of IPS of Ukraine for the billing month and the month preceding it, multiplied by the weighted average price on the day-ahead market for the corresponding hour for the billing month and the month preceding it in the trade zone of the IPS of Ukraine supplied and sold by the business entity on the day-ahead market, the intraday market and under bilateral agreements, and the difference between the amount of the “green” tariff or auction price, taking into account the premium to it *(it)*, established *(determined)* for an electrical facility or its construction stage *(start-up complex)* in accordance with the Law of Ukraine “On Alternative Energy Sources”, and the ratio of the weighted average value of price indices under bilateral agreements concluded pursuant to paragraphs 6 and 6^1 of part two of Article 66 of this Law,	

except for agreements concluded to fulfill special obligations to ensure public interests in the functioning of the electricity market, for the billing month and the month preceding it, for the period of base load in the trade zone of IPS of Ukraine to the weighted average value of the price indices on the day-ahead market for the period of base load in the trade zone of IPS of Ukraine for the billing month and the month preceding it, multiplied by the weighted average price on the day-ahead market for the corresponding hour for the billing month and the month preceding it in the trade zone of IPS of Ukraine. The calculation of the cost of the service under the feed-in premium mechanism provided by business entities that have been set a "green" tariff, if the electricity facility or construction stage *(start-up complex)* of such an electricity producer is not in the balancing group of the guaranteed buyer, and by business entities that have acquired the right to support based on the results of the auction, shall be carried out by the guaranteed buyer in accordance with the procedure for determining the cost and payment for the service under the feed-in premium mechanism provided to the guaranteed buyer approved by the Regulator. The amount of the cost of the service under the feed-in premium mechanism provided by business entities that have been set a "green" tariff or have acquired the right to support through an auction is approved by the Regulator. If the amount of the estimated market price in the established period exceeds the amount of the auction price, taking into account the premium to it, established for the relevant electricity facility or its construction stage *(startup complex),* the economic entity that generates electricity at such electricity facility or its construction stage *(startup complex)* shall pay to the guaranteed buyer the cost of the service under the feed-in premium mechanism for the electricity supplied by the relevant electricity facility or construction stage *(start-up complex)* within a specified period.	
5. The Guaranteed Buyer shall pay for the cost of electricity purchased at the "green" tariff, subject to the requirements of part two of this Article, on the basis of commercial metering data received from the commercial metering administrator, in the manner and within the terms specified in the relevant agreements. The Guaranteed Buyer pays the cost of electricity purchased under the "green" tariff and the cost of the service under the feed-in premium mechanism in proportion to the cost of the purchased volumes of electricity under the "green" tariff and the cost of the service under the feed-in premium mechanism.	5. The Guaranteed Buyer shall pay for the cost of electricity purchased at the "green" tariff, subject to the requirements of part two of this Article, on the basis of commercial metering data received from the commercial metering administrator, in the manner and within the terms specified in the relevant agreements. The Guaranteed Buyer pays for the cost of electricity purchased under the "green" tariff in proportion to the cost of the purchased volumes of electricity under the "green" tariff.

6. The procedure for the purchase of electricity by the guaranteed buyer at the "green" tariff, the procedure for determining the cost and payment for the service under the feed-in premium mechanism provided to the guaranteed buyer by business entities that have been set a "green" tariff or have acquired the right to support based on the results of the auction shall be determined by the procedure for the purchase of electricity generated from alternative energy sources by the guaranteed buyer, which shall be approved by the Regulator.	6. The procedure for the purchase by the guaranteed buyer of electricity at the "green" tariff shall be determined by the procedure for the purchase by the guaranteed buyer of electricity generated from alternative energy sources, which shall be approved by the Regulator.
7. In order to cover the economically justified costs of the guaranteed buyer for the fulfillment of special obligations for the purchase of electricity under the "green" tariff and for the purchase of services under the feed-in premium mechanism provided by business entities that have been set a "green" tariff or have acquired the right to support by auction, the guaranteed buyer shall provide the transmission system operator with a service to ensure an increase in the share of electricity generation from alternative energy sources. This service is provided by the guaranteed buyer during the term of the "green" tariff and the term of support for electricity producers who have acquired the right to such support based on the results of the auction, in accordance with the model contract for the provision of services to increase the share of electricity generation from alternative energy sources, the form of which is approved by the Regulator.	7. In order to cover the economically justified costs of the guaranteed buyer for the fulfillment of special obligations to purchase electricity at the "green" tariff are covered, the guaranteed buyer shall provide the transmission system operator with a service to ensure an increase in the share of electricity generation from alternative energy sources. This service is provided by the guaranteed buyer during the term of the "green" tariff, in accordance with a model contract for the provision of services to increase the share of electricity generation from alternative energy sources, the form of which is approved by the Regulator. Such service shall be provided by the guaranteed buyer for the volumes of electricity supplied by electricity producers at the "green" tariff determined in accordance with part two of this Article.
The cost of the service to ensure an increase in the share of electricity generation from alternative sources provided to the transmission system operator by the guaranteed buyer shall be determined in the relevant billing period as • the difference between the cost of electricity purchased by it in accordance with part two of this Article and its cost when sold under bilateral agreements, on the day-ahead market, intraday market, and balancing market; • expenses related to the purchase of the service under the feed-in premium mechanism; • expenses related to the purchase of electricity on the intraday market to reduce imbalances in the guaranteed buyer's electricity; • costs associated with the settlement of the imbalance of electricity of the guaranteed buyer *(including costs associated with the implementation of commands of the transmission system operator to reduce the load and operational security commands by electricity producers selling electricity at the "feed-in" tariff)*, except for the share of the cost of settling the imbalance of electricity of the balancing group of the guaranteed buyer, which is reimbursed by electricity producers whose electrical facilities or construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer and active consumers whose electrical facilities are included in the balancing group of the guaranteed buyer; • expenses stipulated in the guaranteed buyer's budget for its activities.	The cost of the service to ensure an increase in the share of electricity generation from alternative sources provided to the transmission system operator by the guaranteed buyer shall be determined in the relevant billing period as: • the difference between the cost of electricity purchased by it in accordance with part two of this Article and its cost when sold under bilateral agreements, on the day-ahead market, intraday market, and balancing market; • costs associated with the purchase of electricity on the intraday market to reduce imbalances in the guaranteed buyer's electricity; • costs associated with the settlement of the imbalance of electricity of the guaranteed buyer *(including costs associated with the implementation of commands of the transmission system operator to reduce the load and operational security commands by electricity producers selling electricity at the "feed-in" tariff)*, except for the share of the cost of settling the imbalance of electricity of the balancing group of the guaranteed buyer, which is reimbursed by electricity producers whose electrical facilities or construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer and active consumers whose generating facilities are included in the balancing group of the guaranteed buyer; • expenses stipulated in the guaranteed buyer's budget for its activities.

The cost of the service for ensuring an increase in the share of electricity generation from alternative sources provided to the transmission system operator by the guaranteed buyer shall be determined for the relevant billing period and reduced by • income from the sale of guarantees of origin of electricity generated from renewable energy sources *(including under foreign economic agreements (contracts))* is reduced by the amount of expenses related to the sale of such guarantees of origin; • income from the sale of electricity under electricity export contracts, reduced by the amount of expenses related to access to the capacity of interstate crossings, taxes, fees and other mandatory payments related to the sale of electricity under electricity export contracts; • the amount of financial support received from the state budget to fulfill special obligations to increase the share of electricity generation from alternative energy sources. Adjustment of the cost of the service to ensure an increase in the share of electricity generation from alternative energy sources shall be made in accordance with the procedure for the purchase by the guaranteed buyer of electricity generated from alternative energy sources.	The cost of the service for ensuring an increase in the share of electricity generation from alternative sources provided to the transmission system operator by the guaranteed buyer shall be determined for the relevant billing period and reduced by • income from the sale of guarantees of origin of electricity generated from renewable energy sources *(including under foreign economic agreements (contracts))* is reduced by the amount of expenses related to the sale of such guarantees of origin; • income from the sale of electricity under electricity export contracts, reduced by the amount of expenses related to access to the capacity of interstate crossings, taxes, fees and other mandatory payments related to the sale of electricity under electricity export contracts; • the amount of financial support received from the state budget to fulfill special obligations to increase the share of electricity generation from alternative energy sources. Adjustment of the cost of the service to ensure an increase in the share of electricity generation from alternative energy sources shall be made in accordance with the procedure for the purchase by the guaranteed buyer of electricity generated from alternative energy sources.
The calculation of the cost of the service to ensure an increase in the share of electricity generation from renewable energy sources provided to the transmission system operator by the guaranteed buyer shall be carried out by the guaranteed buyer in accordance with the procedure for the purchase of electricity generated from renewable energy sources by the guaranteed buyer. The amount of the cost of the service to ensure an increase in the share of electricity generation from renewable energy sources provided to the transmission system operator by the guaranteed buyer shall be approved by the Regulator. The guaranteed buyer is obliged to direct the difference between income and expenses incurred during the execution of its special duties to cover its own expenses for the execution of special duties for the purchase of electricity at the “green” tariff from business entities whose electrical facilities or construction stages *(start-up complexes)* are included in the balancing group of the guaranteed buyer, and for the purchase of services under the feed-in premium mechanism from business entities that are set a “feed-in” tariff or which, based on the results of the auction, have acquired the right to support or other special duties.	The calculation of the cost of the service to ensure an increase in the share of electricity generation from renewable energy sources provided to the transmission system operator by the guaranteed buyer shall be carried out by the guaranteed buyer in accordance with the procedure for the purchase of electricity generated from renewable energy sources by the guaranteed buyer. The amount of the cost of the service to ensure an increase in the share of electricity generation from renewable energy sources provided to the transmission system operator by the guaranteed buyer shall be approved by the Regulator. The guaranteed buyer is obliged to direct the difference between income and expenses incurred in the course of fulfilling its special obligations to cover its own expenses for the fulfillment of special obligations to purchase electricity at the “green” tariff from business entities whose electrical facilities or construction stages *(start-up complexes)* are included in the balancing group of the Guaranteed Buyer, or other special obligations.
8. The guaranteed buyer has the right to: 3) obtaining data from the commercial metering administrator on the actual volumes of electricity supplied by producers from whom the guaranteed buyer purchases electricity or purchases services under the feed-in premium mechanism;	8.The guaranteed buyer has the right to: 3) obtaining data from the commercial metering administrator on the actual volumes of electricity supplied by producers from whom the guaranteed buyer purchases electricity;

4) purchase from producers who have been set a "green" tariff, if the generating facilities or their construction stages *(start-up complexes)* are not in the balancing group of the guaranteed buyer and a service agreement has been concluded for such facilities under the feed-in premium mechanism, and electricity producers who have acquired the right to support based on the results of the auction, a service under the feed-in premium mechanism to ensure an increase in the share of electricity production from alternative energy sources, if such producers have concluded a service agreement for the provision of service under the feed-in premium mechanism;	Exclude
10) organise auctions for the distribution of support quotas in accordance with Article 93 of the Law of Ukraine "On Alternative Energy Sources";	Exclude
12) timely and in full pay for the service approved by the Regulator under the feed-in premium mechanism provided by electricity producers who have been set a "green" tariff or who have acquired the right to support based on the results of the auction;	Exclude
11. Electricity consumed from the electricity grids by the electricity producers from alternative energy sources *(and with the use of hydropower – only micro, mini- and small hydropower plants)* by self-consumption electrical facilities or related persons in accordance with Article 25 of this Law, in relations with the guaranteed buyer, shall be considered consumed for the own needs of such electricity producer. In each billing period *(month)*, the volume of electricity supplied by the electrical facility from alternative energy sources *(and with the use of hydropower – only by micro-, mini- and small hydropower plants)*, to the electricity networks of the internal electricity supply of which the electrical facilities of own consumption or related persons are connected in accordance with Article 25 of this Law, shall be determined by deducting the volume of electricity consumption for own needs in electricity of the relevant electrical facility in accordance with the volume of electricity supplied or consumed by electricity producers that generate electricity from alternative energy sources *(and using hydropower – only micro, mini- and small hydropower plants)*, to the internal electricity supply networks of which the electrical facilities of own consumption or related persons are connected in accordance with Article 25 of this Law, in each billing period (hour) shall be determined according to commercial metering data.	11. Electricity consumed from the electricity grids of the electricity producer from alternative energy sources *(and with the use of hydropower – only micro, mini- and small hydropower plants)* by self-consumption electrical facilities or related persons in accordance with Article 25 of this Law, in relations with the guaranteed buyer, shall be considered consumed for the own needs of such electricity producer. In each billing period *(month)*, the volume of electricity supplied by the electrical facility from alternative energy sources *(and with the use of hydropower – only by micro-, mini- and small hydropower plants)*, to the electricity networks of the internal electricity supply of which the electrical facilities of own consumption or related persons are connected in accordance with Article 25 of this Law, shall be determined by deducting the volume of electricity consumption for own needs in electricity of the relevant electricity facility in accordance with the volume of electricity supplied or consumed by electricity producers that generate electricity from alternative energy sources *(and using hydropower – only micro, mini- and small hydropower plants)*, to the internal electricity supply networks of which the electrical facilities of own consumption or related persons are connected in accordance with Article 25 of this Law, in each billing period *(hour)* shall be determined according to commercial metering data.
The price of electricity consumed by the facilities of electricity producers that generate electricity from alternative energy sources *(and with the use of hydropower – only micro-, mini- and small hydropower plants)*, to the technological electricity grids of which the electrical facilities of own consumption or related persons are connected, subject to the purchase of such electricity from a guaranteed buyer, shall be determined as the higher of the "green" tariff *(auction price)* set *(determined)* for such facility, or the price prevailing on the day-ahead market in the relevant billing period, or the price of the negative electricity imbalance in the relevant billing period.	The price of electricity consumed by the facilities of electricity producers that generate electricity from alternative energy sources *(and with the use of hydropower – only micro-, mini- and small hydropower plants)*, to the technological electricity grids of which the electrical facilities of own consumption or related persons are connected, provided that such electricity is purchased from a guaranteed buyer, shall be determined as the higher of the "green" tariff set for such facility or the price prevailing on the day-ahead market in the relevant billing period.

Article 71. Peculiarities of participation in the electricity market of electricity producers generating electricity from alternative energy sources 41. Business entities that generate electricity from alternative energy sources at an electrical facility *(facilities)* or the stage(s) of its *(their)* construction *(start-up complexes)* and are set a “green” tariff, have the right to conclude a service agreement with the Guaranteed Buyer for the provision of services under the feed-in premium mechanism for such facility *(facilities)*, provided that such facility *(facilities)* is not in the balancing group of the Guaranteed Buyer.	**Article 71. Peculiarities of participation in the electricity market of electricity producers generating electricity from alternative energy sources** 41. Business entities that generate electricity from alternative energy sources at the electrical facility*(s)* or the stage*(s)* of its construction *(start-up complexes)* and are set a “green” tariff shall have the right to conclude a service agreement with the transmission system operator on the provision of services under the feed-in premium mechanism for such facility*(s)*, provided that such facility*(s)* is not in the balancing group of the guaranteed buyer.
5. Business entities that intend to generate electricity from alternative energy sources and based on the results of the auction, have acquired the right to support in accordance with Article 9^3 of the Law of Ukraine “On Alternative Energy Sources” shall conclude a service agreement with the guaranteed buyer on the basis of the feed-in premium mechanism.	5. Business entities that intend to generate electricity from alternative energy sources and based on the results of the auction, have acquired the right to support in accordance with Article 9^3 of the Law of Ukraine “On Alternative Energy Sources” shall conclude a service agreement with the transmission system operator on the basis of the feed-in premium mechanism.
The agreement shall stipulate the obligations of the business entity that has acquired the right to support based on the results of the auction to construct and commission the electrical facility or construction stage *(start-up complex)* within 18 months for electrical facilities that generate electricity from solar energy and within 36 months for electrical facilities that generate electricity from other types of alternative energy sources, taking into account the specifics under Article 9^3 of the Law of Ukraine “On Alternative Energy Sources”.	The agreement shall stipulate the obligations of the business entity that has acquired the right to support based on the results of the auction to construct and commission the electrical facility or construction stage *(start-up complex)* within 18 months for electrical facilities that generate electricity from solar energy and within 36 months for electrical facilities that generate electricity from other types of alternative energy sources, taking into account the specifics specified in Article 9^3 of the Law of Ukraine “On Alternative Energy Sources”.
The business entity shall provide to the guaranteed buyer with a document confirming the fact of providing the service of connection of the electrical facility or its construction stage *(start-up complex)* to the transmission or distribution system issued in accordance with the requirements of the transmission system code or the distribution system code, and a certificate confirming the facility’s readiness for operation or a declaration of the facility’s readiness for operation. The obligations of the guaranteed buyer under the contract for the provision of services under the feed-in premium mechanism shall arise from the first day of the month following the month in which the business entity provided the said documents to of the guaranteed buyer.	The business entity shall provide the transmission system operator with a document confirming the fact of providing the service of connection of the electrical facility or its construction stage *(start-up complex)* to the transmission or distribution system issued in accordance with the requirements of the transmission system code or the distribution system code, and a certificate confirming the facility’s readiness for operation or a declaration of the facility’s readiness for operation. The obligations of the transmission system operator under the contract for the provision of services under the feed-in premium mechanism shall arise from the first day of the month following the month in which the business entity submitted the said documents to the transmission system operator.
If a business entity fails to submit the documents provided for in paragraph five of this part within the period provided for in Article 93 of the Law of Ukraine “On Alternative Energy Sources”, the concluded agreement shall be void.	If a business entity fails to submit the documents provided for in paragraph five of this part within the period provided for in Article 93 of the Law of Ukraine “On Alternative Energy Sources”, the concluded agreement shall be void.

The model "green" tariff electricity purchase and sale agreement and the model feed-in premium service agreement shall provide for the right of the business entity to which the "green" tariff is set and the business entity that has acquired the right to support based on the results of the auction to choose, when concluding the agreement, the procedure for resolving disputes arising between the parties to the agreement in connection with the "green" tariff electricity purchase and sale agreement or the feed-in premium service agreement or on its basis, in arbitration under the Arbitration Rules of the International Chamber of Commerce *(ICC)* with the place of arbitration in Paris *(French Republic),* provided that such business entity, which has been granted a "green" tariff, and the business entity that has acquired the right to support as a result of the auction, is a foreign investment enterprise within the meaning of the Commercial Code of Ukraine. If the said dispute resolution procedure is chosen, a business entity that has been set a "green" tariff or a business entity that has acquired the right to support based on the results of an auction, when concluding PPA under the "green" tariff or a service agreement under the feed-in premium mechanism, simultaneously undertakes to pay contributions to the guaranteed buyer to create a special (trust) fund intended to cover the arbitration costs of the guaranteed buyer.	The model "green" tariff electricity purchase and sale agreement and the model feed-in premium service agreement shall provide for the right of the business entity to which the "green" tariff is set and the business entity that has acquired the right to support based on the results of the auction to choose, when concluding the agreement, the procedure for resolving disputes arising between the parties to the agreement in connection with the "green" tariff electricity purchase and sale agreement or the feed-in premium service agreement or on its basis, in arbitration under the Arbitration Rules of the International Chamber of Commerce *(ICC)* with the place of arbitration in Paris *(French Republic),* provided that such business entity, which has been granted a "green" tariff, and the business entity that has acquired the right to support as a result of the auction, is a foreign investment enterprise within the meaning of the Commercial Code of Ukraine. If the said dispute resolution procedure is chosen, the business entity that has been set a "green" tariff, when concluding a contract for the sale and purchase of electricity under the "green" tariff, simultaneously undertakes to pay contributions to the guaranteed buyer to create a special *(trust)* fund intended to cover the arbitration costs of the guaranteed buyer. In case of choosing the said dispute resolution procedure, the business entity that has acquired the right to support based on the results of the auction, when concluding a service agreement under the feed-in premium mechanism, simultaneously undertakes to pay contributions to the transmission system operator to create a special (trust) fund intended to cover the arbitration costs of the transmission system operator.
Contributions to the creation of a special fund for the guaranteed buyer shall be paid during the term of the electricity purchase and sale agreement under the "green" tariff or the contract for the provision of services under the feed-in premium mechanism. Regardless of the use of the right to resolve disputes in international arbitration by a business entity that has been set a "green" tariff or a business entity that has acquired the right to support based on the results of an auction, the contributions paid are not refundable.	Contributions to the creation of a special fund for the guaranteed buyer shall be paid during the term of the electricity purchase and sale agreement under the "green" tariff. Regardless of the use of the right to resolve disputes in international arbitration by the business entity to which the "green" tariff is set, the contributions paid shall not be refunded to the payer. The contributions to the special fund of the transmission system operator shall be paid during the term of the service agreement under the feed-in premium mechanism. Regardless of the use of the right to resolve disputes in international arbitration by the business entity that acquired the right to support as a result of the auction, the paid contributions shall not be refunded to the payer.
Contributions to the creation of the special fund of the guaranteed buyer shall be paid by payers periodically, but at least once a quarter, within the terms and in the amount approved by the Regulator.	Contributions to the creation of the special fund of the guaranteed buyer and the special fund of the transmission system operator shall be paid by payers periodically, but at least once a quarter, within the terms and in the amount approved by the Regulator.

The amount of contributions is determined by the Regulator as part of the net income of the contribution payer from its electricity generation activities at the electricity facility or the construction stage *(start-up complex)* of the electricity facility in respect of which the relevant “green” tariff electricity purchase and sale agreement or feed-in premium service agreement has been concluded and may not exceed 1 percent of the contribution payer’s net income from its activities at the relevant facility for the previous reporting period. The funds of the special fund of the Guaranteed Buyer shall be of a targeted nature and may be used exclusively for the expenses of the Guaranteed Buyer for the resolution of disputes in arbitration. The Regulator shall control the use of the funds of the special fund of the guaranteed buyer.	The amount of contributions is determined by the Regulator as part of the net income of the contribution payer from its electricity generation activities at the electricity facility or the construction stage *(start-up complex)* of the electricity facility in respect of which the relevant “green” tariff electricity purchase and sale agreement or feed-in premium service agreement has been concluded and may not exceed 1 percent of the contribution payer’s net income from its activities at the relevant facility for the previous reporting period. The funds of the special fund of the guaranteed buyer shall be earmarked and may be used exclusively for the expenses of the guaranteed buyer for the resolution of disputes in arbitration. The Regulator shall control the use of the special fund of the guaranteed buyer. The funds of the special fund of the transmission system operator shall be of a targeted nature and may be used exclusively for the expenses of the transmission system operator for the resolution of disputes in arbitration. The Regulator shall control the use of the special fund of the transmission system operator.

ANNEX 8
JUSTIFICATION

For Adoption of the NEURC Resolution “On Approval of Amendments to the Transmission System Code”

In accordance with the provisions of Article 6*(3)* of the Law of Ukraine “On the Electricity Market” *(hereinafter – the “Law”),* the powers of the National Energy and Utilities Regulatory Commission *(hereinafter – “NEURC”, the “Regulator”)* in the electricity market shall include, in particular, approval of market rules, day-ahead and intraday market rules, Transmission System Code, Distribution System Code, Commercial Metering Code, retail market rules, other legal acts and regulatory documents that regulate the electricity market. In addition, in accordance with the provisions of Article 6*(2)* of the Law of Ukraine “On the Electricity Market”, the main tasks of the Regulator in the electricity market shall include, inter alia, ensuring simple and non-burdensome conditions for connection to and access to the electricity grid for new users of the system, including the removal of barriers that may impede access to new buyers and producers of electricity, in particular, those producing electricity from alternative energy sources.

At the stage of developing RES projects, the key issue for investors is to assess their business and operational risks associated with connecting RES facilities to the grid, in particular, the possibility of generating RES power at the facility under consideration and the cost of grid connection.

Taking into account the provisions of clause 7.5.2, Chapter 7, Section III of the Transmission System Code, such an assessment may be carried out by the investor by engaging a specialised company to prepare a feasibility study for the facility connection/supply scheme *(hereinafter – the feasibility study),* which, in turn, must meet the requirements of regulatory and technical documentation.

Today, given the destruction of the IPS of Ukraine and the need to restore the damaged and build new generation and power transmission facilities, TSO’s activities should take into account:

- rapid development of alternative energy in 2019-2021 and the actual impact of the connection of RES facilities on the overall balance of the power system;
- integration of the IPS of Ukraine into ENTSO-E;
- prospects for developing ESFs;
- options for connecting hybrid power plants and power plants with ESFs to the grid;
- list and scope of initial data for the feasibility study, their validity and the procedure for their modification;
- international experience on the procedure for developing a calculation model for connecting new RES facilities. First of all, determining the level of participation in the capacity models of existing RES and RES under the concluded connection agreements, in particular, WPPs, SPPs and ESFs, based on the principle of taking into account technological differences and specifics of their operation schedule during the day and season *(e.g., generation of the RES facility to be connected should be taken as 100% of generation, generation of other RES facilities for which technical conditions have been issued should be taken in accordance with the specifics of the estimated time of day and season: at 1:00 pm in summer, SPP = 100%, WPP = 50%; at 7:00 pm in summer, SPP = 25%, WPP = 75%, etc.);*
- international experience in including in the calculation models the projected capacity of RES *(by type)* in accordance with the terms of the concluded connection agreements and their territorial location *(mutual influence);*
- the need to introduce a more flexible approach to the need to ensure the N-1 criterion when connecting a RES facility to the grid, which would allow the customer to choose between the following options for ensuring this criterion at their discretion.

The current provisions of the Transmission System Code do not allow TSO to take into account the above factors in its activities and do not provide flexibility in decision-making for access to new transmission system users due to their absence, which does not allow:

- the system operator:
  – to assess objectively the impact of the connection of the power facility and ESFs on the operation of the IPS of Ukraine;
- the investor to determine:
  – possibility of creating RES capacities at the site under consideration;
  – reasonable *(minimum necessary)* list of technical measures required to ensure electricity generation by the RES facility;
  – level of costs associated with connecting the facility to the grid.

In view of the above, we propose to adopt the NEURC Resolution “On Approval of Amendments to the Transmission System Code”.

RESOLUTION

NATIONAL ENERGY AND UTILITIES REGULATORY COMMISSION OF UKRAINE *(NEURC)*

ON APPROVAL OF AMENDMENTS TO THE TRANSMISSION SYSTEM CODE

In accordance with the Laws of Ukraine “On the Electricity Market” and “On the National Energy and Utilities Regulatory Commission”, the National Energy and Utilities Regulatory Commission of Ukraine hereby

RESOLVED:

1. To approve the attached Amendments to the Transmission System Code.
2. This Resolution shall enter into force on the day following the day of its publication on the official website of the National Energy and Utilities Regulatory Commission.

AMENDMENTS

Resolution of NEURC to the Transmission System Code

1. The following amendments shall be made to the Transmission System Code approved by Resolution of the National Energy and Utilities Regulatory Commission No. 309 dated 14 March 2018:

1.1. In Chapter 1 of Section I:

1) in clause 1.4:

- paragraph one hundred thirty-three shall be amended as follows:

  "a feasibility study *(FS)* is a type of design documentation that considers several variants of the scheme for connecting the Customer's facility to the power grids *(power plant power output scheme or external power supply scheme for consumer electrical installations)* and determines the scope of construction of power grid facilities from the point of connection to the Customer's electrical installations, as well as the scope of new construction, reconstruction and technical re-equipment of the transmission organisation's networks from the point of power supply to the point of connection related to the connection or increase of the customer's power installations.

The feasibility study for the connection scheme of generation facilities and ESFs shall be developed in accordance with the provisions of the Feasibility Study Methodology *(Procedure)*, which is attached to this Code, developed by TSO and approved by the Regulator".

- paragraph eighteen shall be amended as follows:

  "initial data for the FS development means the characteristics and load of the transmission system elements *(by elements)* within the connection area of the Customer's facility, taking into account the capacity reserve under the concluded connection agreements, which are essential for determining the point*(s)* of power supply, taking into account the ordered categorisation for the reliability of electricity supply. The composition and content of the initial data shall be determined by TSO, taking into account the capacity of the Customer's facility and its impact on the operation of the IPS of Ukraine. The list of initial data provided by TSO to the Customer is specified in Appendix __ to this Code. At the Customer's request, TSO shall provide the initial data not provided for in Appendix _ or send the Customer a justified refusal to provide them".

2) after paragraph fifteen, new paragraph sixteen with the following content shall be added:

- "a FS contractor shall be an individual or legal entity that has the right to perform feasibility study development works in accordance with the law and shall perform them for the Customer based on the agreement concluded with him/her in accordance with his/her provisions and provisions of this Code".

In this regard, paragraphs one hundred fifteen to one hundred sixty-eight shall be redesignated as paragraphs one hundred sixteen to one hundred sixty-nine, respectively;

3) after paragraph one hundred fourteen, new paragraph one hundred fifteen with the following content shall be added:

  "a calculation model is an idealisation of the power system, which includes the topology of the construction of power grids and power equipment of a certain voltage class, technical parameters and operating condition of the equipment. The calculation model is formed in a specialised software package to perform modes of the grid scheme based on the initial data for the FS development provided by TSO to determine the power flow, thermal loading of grid elements and equipment, assess changes in power losses and voltage levels in grid elements and in the event of the introduction of new equipment, perform short-circuit currents, and calculate stability".

In this regard, paragraphs one hundred fifteen to one hundred sixty-nine shall be redesignated as paragraphs one hundred sixteen to one hundred seventy, respectively;

1.2. In Chapter 7 of Section III:

1) in clause 7.5:

- subparagraph 7.5.1 shall be amended as follows:

  "7.5.1. The Customer shall develop the feasibility study of the connection scheme:

  to assess business and production risks of connecting electrical installations to the power grids;

- in case of disagreement with TSO's proposed point of power supply and/or connection scheme;
- to determine the feasibility of connecting the transmission system of generating units with a capacity of 20 MW and below and the consumer's electrical installations to the power grids.

The FS development shall be provided by the Customer and carried out by the FS contractor in accordance with the design assignment developed in accordance with the standard form given in Appendix ___ to this Code and approved by the Customer.

The feasibility study shall comply with the Feasibility Study Methodology *(Procedure)* and applicable regulatory and technical documents. In case of inconsistency between the provisions of the Feasibility Study Methodology *(Procedure)* and regulatory and technical documents, the provisions of the Methodology *(Procedure)* shall be taken into account with a higher priority".

- subparagraph 7.5.2 shall be amended as follows:
  "7.5.2. Any individual or legal entity shall have the right to receive initial data from TSO for the FS development free of charge.

TSO shall provide the initial data for the FS development to the Customer or the FS contractor based on an application, the standard form of which is given in Appendix 2 to this Code, within 10 working days from the date of receipt of the application.

The initial data for the FS development *(its volume and/or section)* shall be valid for the entire FS development period, but no more than 12 months.

The validity period of the initial data for the feasibility study shall be automatically extended for the period exceeding TSO's regulatory deadlines for consideration of the Customer's requests for approval of the feasibility study or its components.

Changing the initial data for the feasibility study is allowed only upon the Customer's request/consent".

- new subparagraph 7.5.3 shall be added as follows:
  "7.5.3. Based on the initial data received from TSO, DSO for the FS development or a separate volume or section of electrical calculations of active and reactive power, currents and voltages, stability calculations, as part of the design documentation for the construction and/or technical re-equipment of the external power supply networks of the Customer's electrical installations *(up to the point of connection of the Customer's electrical installations)*, the FS contractor shall form basic calculation models for the typical periods stipulated by the terms of reference for the feasibility study or design documentation for the construction and/or technical re-equipment of the external power supply networks of the Customer's electrical installations *(up to the point of connection of the Customer's electrical installations)* in the relevant software package and submit them to TSO for consideration and approval in the form of graphic materials.

TSO shall process the basic calculation models provided by the Customer or the FS contractor and, no later than 10 working days from the date of their receipt, provide written approval or relevant comments for revision.

The term for finalisation of the calculation models by the Customer shall be 30 working days from the date of receipt of the Customer's comments to it. The Customer may extend the deadline for finalising the calculation models by sending a written notice to TSO no later than 2 working days before the expiry of the deadline for finalisation.

Re-approval of the basic calculation models for the FS development or a separate volume or section of electrical calculations of active and reactive power, currents and voltages, stability calculations, as part of the design documentation for the construction and/or technical re-equipment of the external power supply networks of the Customer's electrical installations *(up to the point of connection of the Customer's electrical installations)* shall be carried out within 10 working days from the date of their re-submission. During the re-approval of the basic calculation models, it is not allowed to put forward new comments, if they do not relate to the changes made to the basic calculation models".

In this regard, subclause 7.5.3 shall be considered subclause 7.5.4, accordingly.

- subparagraph 7.5.4 shall be amended as follows:
  "7.5.4. The developed feasibility study shall be agreed upon by the Customer and TSO.

The conclusions of the feasibility study shall be based on technically feasible options for supplying power to the consumer in TSO's or DSO's network, and recommend the option with the lowest financial costs for the Customer as the most appropriate.

If the feasibility study considers the options for connecting the Customer's power installations to TSO's and DSO's networks, the developed feasibility study shall be agreed upon by TSO and DSO. TSO shall review the feasibility study taking into account the results of DSO's review of the feasibility study.

TSO shall review and approve the feasibility study free of charge.

TSO shall process the feasibility study submitted by the Customer or DSO and, no later than 10 working days from the date of receipt of the feasibility study, approve it or provide its written comments *(with reference to the requirements of the relevant regulatory and technical documents),* including the need to consider in the feasibility study another option for connecting the Customer's power installations than those provided for in the feasibility study.

The term for finalisation of the feasibility study by the Customer shall be 30 working days from the date of receipt of the Customer's comments to it. The Customer may extend the term for finalising the feasibility study by sending a written notice to TSO and/or DSO no later than 2 working days before the expiry of the finalisation term.

The revised feasibility study shall be subject to reconsideration by TSO within 10 working days from the date of receipt of the feasibility study, taking into account the peculiarities specified in paragraph three of this sub-clause.

During the reconsideration of the feasibility study, it is not allowed to submit comments, unless they relate to changes to the feasibility study or failure to eliminate previously submitted comments.

Approval of TSO's feasibility study for the whole or part of the transmission system's power grids, if the feasibility study considers options for connecting the Customer's power installations to TSO's and DSO's grids, shall be made in writing.

The Customer shall have the right to choose any of the connection options considered in the approved feasibility study.

TSO shall not have the right to refuse to conclude a connection agreement with the Customer in accordance with the connection scheme option chosen by the Customer and provided for in the approved feasibility study.

If the Customer does not agree with TSO's proposal for a different connection scheme option than the one provided for in the feasibility study, it shall have the right not to sign the connection agreement and initiate the settlement of disputes in accordance with the procedure established in Chapter 5, Section I of this Code".

NEURC RESOLUTION No. 309 DATED 14/03/2018 *(AS AMENDED)*	WORDING OF THE NEURC DRAFT RESOLUTION "ON AMENDMENTS TO THE TRANSMISSION SYSTEM CODE"
I. General Provisions 1. Definitions of key terms and concepts	
1.4. In this Code, the following terms shall be used in the following meanings: The term is missing	1.4. In this Code, the following terms shall be used in the following meanings: • a FS contractor shall be an individual or legal entity that has the right to perform feasibility study development works in accordance with the law and shall perform them for the Customer based on the agreement concluded with him/her in accordance with his/her provisions and provisions of this Code.
• a feasibility study *(FS)* means justification of the choice of the facility connection scheme developed by the Customer in cases specified by this Code;	• a feasibility study *(FS)* is a type of design documentation that considers several variants of the scheme for connecting the Customer's facility to the power grids *(power plant power output scheme or external power supply scheme for consumer electrical installations)* and determines the scope of construction of power grid facilities from the point of connection to the Customer's electrical installations, as well as the scope of new construction, reconstruction and technical re-equipment of the transmission organisation's networks from the point of power supply to the point of connection related to the connection or increase of the customer's power installations. The feasibility study for the connection scheme of generation facilities and ESFs shall be developed in accordance with the provisions of the Feasibility Study Methodology *(Procedure)*, which is attached to this Code, developed by TSO and approved by the Regulator.
• initial data for the FS development for the selection of the connection scheme of the electrical installation means the characteristics and load of the transmission system elements *(by elements)*, relevant at the time of the Customer's request, taking into account the capacity reserve under the concluded connection agreements, which are essential for determining the point*(s)* of power supply, taking into account the ordered categorisation for the reliability of electricity supply;	• initial data for the FS development means the characteristics and load of the transmission system elements *(by elements)* within the connection area of the Customer's facility, taking into account the capacity reserve under the concluded connection agreements, which are essential for determining the point*(s)* of power supply, taking into account the ordered categorisation for the reliability of electricity supply. The composition and content of the initial data shall be determined by TSO, taking into account the capacity of the Customer's facility and its impact on the operation of the IPS of Ukraine. The list of initial data provided by TSO to the Customer is specified in Appendix __ to this Code. At the Customer's request, TSO shall provide the initial data not provided for in Appendix _ or send the Customer a justified refusal to provide them.

The term is missing	• a calculation model is an idealisation of the power system, which includes the topology of the construction of power grids and power equipment of a certain voltage class, technical parameters and operating condition of the equipment. The calculation model is formed in a specialised software package to perform modes of the grid scheme based on the initial data for the FS development provided by TSO to determine the power flow, thermal loading of grid elements and equipment, assess changes in power losses and voltage levels in grid elements and in the event of the introduction of new equipment, perform short-circuit currents, and calculate stability.
III. Conditions and Procedure for Connection to the Transmission System, Technical Requirements for Electrical Installations of Electric Power Facilities **7. Procedure for Organising Connection to the Transmission System**	
7.5.1. The Customer shall develop the feasibility study of the connection scheme: • in case of disagreement with TSO's proposed point of power supply and/or connection scheme; • to determine the feasibility of connecting the transmission system of generating units with a capacity of 20 MW and below and the consumer's electrical installations to the power grids. The feasibility study shall be developed by the design organisation at the Customer's expense.	**7.5.1. The Customer shall develop the feasibility study of the connection scheme:** • to assess business and production risks of connecting electrical installations to the power grids; • in case of disagreement with TSO's proposed point of power supply and/or connection scheme; • to determine the feasibility of connecting the transmission system of generating units with a capacity of 20 MW and below and the consumer's electrical installations to the power grids. The FS development shall be provided by the Customer and carried out by the FS contractor in accordance with the design assignment developed in accordance with the standard form given in Appendix ___ to this Code and approved by the Customer.
The feasibility study shall comply with applicable regulatory and technical documents.	The feasibility study shall comply with the Feasibility Study Methodology *(Procedure)* and applicable regulatory and technical documents. In case of inconsistency between the provisions of the Feasibility Study Methodology *(Procedure)* and regulatory and technical documents, the provisions of the Methodology *(Procedure)* shall be taken into account with a higher priority.
7.5.2. Any individual or legal entity shall have the right to receive initial data from TSO for developing a feasibility study free of charge to select a connection scheme of its electrical installations to the transmission system in order to assess business and production risks. TSO shall provide the initial data for the FS development based on an application, the standard form of which is given in Appendix 2 to this Code, within 10 working days from the date of receipt of the application.	**7.5.2. Any individual or legal entity shall have the right to receive initial data from TSO for developing a feasibility study free of charge to select a connection scheme of its electrical installations to the transmission system in order to assess business and production risks.** TSO shall provide the initial data for the FS development to the Customer or the FS contractor based on an application, the standard form of which is given in Appendix 2 to this Code, within 10 working days from the date of receipt of the application. The initial data for the FS development *(its volume and/or section)* shall be valid for the entire FS development period, but no more than 12 months.

	The validity period of the initial data for the feasibility study shall be automatically extended for the period exceeding TSO's regulatory deadlines for consideration of the Customer's requests for approval of the feasibility study or its components. Changing the initial data for the feasibility study is allowed only upon the Customer's request/consent.
New paragraph	**7.5.3. Based on the initial data received from TSO, DSO for the FS development or a separate volume or section of electrical calculations of active and reactive power, currents and voltages, stability calculations, as part of the design documentation for the construction and/or technical re-equipment of the external power supply networks of the Customer's electrical installations *(up to the point of connection of the Customer's electrical installations)*, the FS contractor shall form basic calculation models for the typical periods stipulated by the terms of reference for the feasibility study or design documentation for the construction and/or technical re-equipment of the external power supply networks of the Customer's electrical installations *(up to the point of connection of the Customer's electrical installations)* in the relevant software package and submit them to TSO for consideration and approval in the form of graphic materials.** TSO shall process the basic calculation models provided by the Customer or the FS contractor and, no later than 10 working days from the date of their receipt, provide written approval or relevant comments for revision. The term for finalisation of the calculation models by the Customer shall be 30 working days from the date of receipt of the Customer's comments to it. The Customer may extend the deadline for finalising the calculation models by sending a written notice to TSO no later than 2 working days before the expiry of the deadline for finalisation. Re-approval of the basic calculation models for the FS development or a separate volume or section of electrical calculations of active and reactive power, currents and voltages, stability calculations, as part of the design documentation for the construction and/or technical re-equipment of the external power supply networks of the Customer's electrical installations *(up to the point of connection of the Customer's electrical installations)* shall be carried out within 10 working days from the date of their re-submission. During the re-approval of the basic calculation models, it is not allowed to put forward new comments, if they do not relate to the changes made to the basic calculation models.
7.5.3. Based on the developed feasibility study of the connection scheme, the Customer may offer TSO its version of the point of power supply *(connection scheme)*.	**7.5.4. The developed feasibility study shall be agreed upon by the Customer and TSO.** The conclusions of the feasibility study shall be based on technically feasible options for supplying power to the consumer in TSO's or DSO's network, and recommend the option with the lowest financial costs for the Customer as the most appropriate.

	If the feasibility study considers the options for connecting the Customer's power installations to TSO's and DSO's networks, the developed feasibility study shall be agreed upon by TSO and DSO. TSO shall review the feasibility study taking into account the results of DSO's review of the feasibility study. TSO shall review and approve the feasibility study free of charge.
TSO shall process the Customer's version of the point of power supply *(connection scheme)* and, no later than 10 working days after receiving the feasibility study, accept the Customer's proposals or justify in writing the priority of another version of the connection scheme than that provided for in the feasibility study.	TSO shall process the feasibility study submitted by the Customer or DSO and, no later than 10 working days from the date of receipt of the feasibility study, approve it or provide its written comments *(with reference to the requirements of the relevant regulatory and technical documents),* including the need to consider in the feasibility study another option for connecting the Customer's power installations than those provided for in the feasibility study. The term for finalisation of the feasibility study by the Customer shall be 30 working days from the date of receipt of the Customer's comments to it. The Customer may extend the term for finalising the feasibility study by sending a written notice to TSO and/or DSO no later than 2 working days before the expiry of the finalisation term. The revised feasibility study shall be subject to reconsideration by TSO within 10 working days from the date of receipt of the feasibility study, taking into account the peculiarities specified in paragraph three of this sub-clause. During the re-consideration of the feasibility study, it is not allowed to submit comments, unless they relate to changes to the feasibility study or failure to eliminate previously submitted comments. Approval of TSO's feasibility study for the whole or part of the transmission system's power grids, if the feasibility study considers options for connecting the Customer's power installations to TSO's and DSO's grids, shall be made in writing. The Customer shall have the right to choose any of the connection options considered in the approved feasibility study. TSO shall not have the right to refuse to conclude a connection agreement with the Customer in accordance with the connection scheme option chosen by the Customer and provided for in the approved feasibility study.
If the Customer does not agree with TSO's proposal for a different connection scheme option than the one provided for in the feasibility study, it shall have the right not to sign the connection agreement and initiate the settlement of disputes in accordance with the procedure established in Chapter 5, Section I of this Code.	If the Customer does not agree with TSO's proposal for a different connection scheme option than the one provided for in the feasibility study, it shall have the right not to sign the connection agreement and initiate the settlement of disputes in accordance with the procedure established in Chapter 5, Section I of this Code.

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