

Legislative Initiatives for 15-31 May 2020 that Have Impact upon the Activities of RES Producers

The Verkhovna Rada of Ukraine

Effective Laws

On 23 May 2020, the Law of Ukraine No. 466-IX dated 16 January 2020 “On Amendments to the Tax Code of Ukraine Concerning Improvement of Tax Administration, Elimination of Technical and Logical Inconsistencies in Tax Legislation” came into force. The Law is known as draft Law No. 1210, which introduced many material amendments to the Tax Code of Ukraine, in particular, it abolished the VAT exemption for SPPs and WPPs equipment.

Voted laws

On 20 May 2020, the Verkhovna Rada of Ukraine approved in the first reading the draft Law on Amendments to the Bankruptcy Procedure Code of Ukraine (concerning measures aimed at repayment of debts incurred in the wholesale electricity market) (registration No. 2390). It is one of five laws adoption of which is defined as a prerequisite for a comprehensive solution of the debts issue occurred before 01 July 2019 in the Wholesale Electricity Market.

Registered legislative initiatives

Registration No. 3538 dated 26 May 2020 - the draft Law on Amendments to Section XX “Transitional Provisions” of the Tax Code of Ukraine, proposes provision of 50% rebate for land fee (land tax and land rent of state and communal property) for the entire period of the quarantine put by the Cabinet of Ministers of Ukraine. In fact, the draft Law prolongs the term of the previously provided tax benefits concerning the land tax which expired on 01 May 2020.

Registration No. 3537 dated 26 May 2020 - the draft Law on Amendments to Section XX “Transitional Provisions” of the Tax Code of Ukraine proposes introduction of payment of tax liabilities on real revenues (cash funds) of taxpayers received as payment for goods, works or services (cash-basis method) and not on fact of shipment of goods, performance of works and supply of services for which payment has not been made.

Registration No. 3501 dated 19 May 2020 - the draft Law on amendments to certain legislative acts of Ukraine to improve the legislation on conducting business activities. Among other things, the draft Law regulates the relationship among the land owners, land users and persons aiming to obtain a temporary easement for installation of line facilities and construction of auxiliary facilities to ensure operation of line facilities (procedure for initiating an easement agreement conclusion, standard agreement form and minimum service fee, etc.).

The Committee on Energy and Housing and Communal Services

The Committee held no sessions during 15-31 May 2020.

On 20 May 2020, the Committee held a working meeting (online conference) on finalization of the draft Law on Amendments to the Law of Ukraine “On the Electricity Market”, registration No. 3199. Close attention is paid to this draft Law since it violates the principles of market competition and proposes to allow manual, administrative mode to distribute certain volumes of electricity produced by SE “Energoatom” among large consumers (with capacity of electrical installations equal to and exceeding 250 MW) at price controlled by the NEURC.

The Cabinet of Ministers of Ukraine

Adopted statutory instruments

Resolution No. 392 dated 20 May 2020 which extended the quarantine until 22 June 2020 and stipulated the anti-epidemic measures and stages of their easing.

Resolution No. 400 dated 20 May 2020 introducing amendments to Resolution No. 483 dated 05 June 2019 on imposition of special obligations on the market participants for general public service within electricity market operation.

The Government has partially amended the Regulation on imposing special obligations on electricity market participants, as well as the Procedure for conducting electronic auctions for the sale of electricity under bilateral contracts.

In particular, the mandatory share of electricity sale by NNEGC Energoatom within PSO mechanism was reduced (from 85% to 80%) and the company entered the bilateral contracts market. NNEGC Energoatom will be able to sell such available electricity in the bilateral contracts market at special auctions to final large non-domestic consumers, without the possibility of its resale.

In addition, price caps for electricity selling by SE “Guaranteed Buyer” have been removed and the company is entitled to sell electricity under bilateral contracts.

The National Energy and Utilities Regulatory Commission

Adopted statutory instruments

Resolution No. dated 27 May 2020 amending Transmission System Code approved by NEURC Resolution No. 309 dated 14 March 2018 Changes to the Code:

- improvement of the procedure for amending the Transmission System Code;
- specification of requirements to customers and the procedure for the connection to the transmission system;
- editorial clarification of the procedure for arrangement of investigations and recording of technological violations;
- clarification of the procedure for planning change of the condition of transmission system equipment and the state of the transmission system users, etc.

Draft statutory instruments approved for publication and further discussion

Draft Resolution of the NEURC on introduction of amendments to the Market Rules approved by Resolution of the NEURC No. 307 dated 14 March 2018 stipulating a mechanism for cost compensation and a methodology for estimation of the volume of dispatcher’s curtailment of electricity production by RES plants selling electricity at FiT.

According to the Regulator, such compensation shall be provided by the transmission system operator, i.e., Ukrenergo, through the balancing market mechanism. At the same time, the mechanism of dispatcher’s curtailment itself provides for participation of RES producers in the balancing market within which they shall submit bids for unloading exclusively for the product “activation of RES producers” at a price of UAH 0.01/MWh.



In addition, volumes of these bids shall be equal to the volume of difference between the planned output volume by RES unit for the next hour and the capacity of the reference group (generating units), if capacity of such RES unit does not exceed 10 MW, otherwise it shall be zero.

According to the draft amendments, if such requirements are not met, TSO will not compensate to the RES producer cost of electricity nondelivered due to dispatcher's command for unloading.

To the attention of participants of the RES electricity market!!!

As of 31 May 2020, the draft Resolution of the NEURC has not been published on the Regulator's website for discussion. Given the importance of this document and the need to address and resolve as soon as possible the issue of curtailment compensation for RES producers, market participants shall submit their proposals and comments concerning this document within the deadline specified in the NEURC announcement.