

Legislative initiatives for 18-30 June 2020 impacting RES producers

The Verkhovna Rada of Ukraine

Voted laws, resolutions

On 19 June 2020, the Verkhovna Rada of Ukraine adopted the Law on Amendments to Certain Legislative Acts of Ukraine Concerning Simplification of Attracting Investments and Introduction of New Financial Instruments (draft Law No. 2284). This law approved the Law “On Capital Markets and Organized Commodity Markets” and amended a number of current legislative acts. Currently, the Law is being prepared for signing by the Chairman of the Verkhovna Rada of Ukraine.

The law, in particular, regulates circulation of “green” bonds in Ukraine the issue of which will ensure financing of RES projects. According to the law, “green” bonds are issued solely to finance the environmental projects; the latter include projects in the field of renewable energy, energy efficiency, waste management, conservation of flora and fauna and others. Funds received from the issue of securities should be used exclusively for the implementation of such a project.

In addition, the law regulates other issues related to the functioning of energy markets, in particular, the issue of authorizing the National Energy and Utilities Regulatory Commission (the “NEURC”) and the National Securities and Stock Market Commission (the “NSSMC”) to regulate commodity spot markets and derivative contracts. Thus, according to the Law:

- the NEURC is authorized to regulate the spot market of energy carriers;
- the NEURC is authorized to regulate derivative contracts where the underlying asset is energy carrier with obligatory physical supply of the asset;
- the NSSMC shall ensure regulation of derivative contracts where the underlying asset is energy carrier and if such a contract is a financial instrument;
- the NSSMC regulates the rules of operation of commodity exchanges in such markets;
- the NEURC shall set the conditions for attracting a clearing institution in the electricity and natural gas markets.

On 18 June 2020, the Verkhovna Rada of Ukraine adopted the Law on Amendments to the Law of Ukraine “On Environmental Impact Assessment” (draft Law No. 3438). The law is submitted to the President of Ukraine for signing. According to the law, for the period of quarantine prescribed by the Cabinet of Ministers of Ukraine in connection with COVID-19 and within 30 days after its cancellation the public discussions of planned activities shall be held only in the form of written comments and suggestions. Public hearings (in person) are not held.

These requirements apply to RES projects under development.

Registered legislative initiatives

Registration No. 3665-1 dated 30 June 2020 - draft Law “On Amendments to the Tax Code of Ukraine and Certain Other Legislative Acts of Ukraine Concerning Introduction of Withdrawn Capital Tax to Replace Corporate Income Tax”. This draft Law is an alternative to draft No. 3665 registered at the Verkhovna Rada of Ukraine on 16 June 2020 (refer to the review of legislative initiatives for 1 - 17 June 2020).

The drafts are currently being considered by the Committee on Finance, Taxation and Customs Policy.

Registration No. 3753 dated 26 June 2020 - draft Law on amendments to certain legislative acts of Ukraine on improvement of terms of business activities during post-quarantine period. The draft Law proposes to amend a number of laws, in particular:

- to apply a moratorium on planned measures of state supervision (control) until the end of 2020 (currently - for the period of quarantine);
- term of administrative services provision suspended due to the quarantine shall be extended for the period of quarantine and for three months from the date of its cancellation;
- term of permit documents the validity of which expires during the quarantine period shall be prolonged for the quarantine period and three months from the date of expiration.

Registration No. 3739 dated 24 June 2020 - draft Law on Amendments to the Law of Ukraine “On Public Procurement”. The draft Law envisages changes in public procurement procedures through introduction of mandatory requirements for production localization (local content) of equipment or its components in Ukraine. That is, during the procurement procedure, not only the price criteria will be taken into account, but also degree of local content of Ukrainian equipment and components will be checked within the procurement framework. This applies to the following commodity items (the list is not exclusive):

CPV code according to the Common Procurement Vocabulary	Description according to the Common Procurement Vocabulary	The degree of local content of production in Ukraine since 2021	The degree of local content of production in Ukraine since 2024
31124100-2	Turbine generator sets	40%	55%
31170000-8	Transformers	40%	55%
31172000-2	Voltage transformers	40%	55%
42110000-3	Turbines and engines	45%	60%
42112100-8	Steam turbines	45%	60%
42112200-9	Hydraulic turbines	45%	60%

Requirements of the draft Law may impact the projects implemented with budget funds or companies from the public sector of the economy.

Registration No. 3658-1 (A. Gerus) dated 23 June 2020 – draft Law on Amendments to Certain Laws of Ukraine on Improvement of Support Conditions of Electricity Production from Renewable Energy Sources. This draft law is an alternative to draft No. 3658 (CMU) registered at the Verkhovna Rada of Ukraine on 16 June 2020 (refer to the review of legislative initiatives for 1-17 June 2020).

Registration No. 3657-1 (A. Zhupanin) dated 23 June 2020 – draft Law on Amendments to the Law of Ukraine “On the Electricity Market” (on resolving of problematic issues in the electricity market). This draft law is an alternative to draft No. 3657 (CMU) registered at the Verkhovna Rada of Ukraine on 16 June 2020 (refer to the review of legislative initiatives for 1-17 June 2020).

The Committee on Energy and Housing and Communal Services

Meeting of the Committee was held on 25 June 2020:

1. There was heard information about the draft Law on Amendments to Certain Laws of Ukraine on Improvement of Support Conditions of Electricity Production from Renewable Energy Sources No. 3658 (CMU) and alternative draft Law No. 3658-1 (A. Gerus). Drafts aimed at implementation of the

provisions of the Memorandum for resolving of the problematic issues in the renewable power industry of Ukraine.

The Committee recommended to the Verkhovna Rada to adopt in the first reading the main draft Law No. 3658 (CMU). The draft Law is put to the agenda of the Verkhovna Rada of Ukraine scheduled on 2 June 2020.

2. It was decided to recommend to the Verkhovna Rada to adopt in the first reading the draft Law on Amendments to the Law of Ukraine “On the Electricity Market” No. 3199. The draft Law creates benefits for large industrial consumers of electricity providing the opportunity to buy electricity from producers under bilateral contracts. However, the law contains a number of shortcomings, in particular regarding the criteria for determining consumers entitled for such benefits.

The President of Ukraine

On 30 June 2020, the President approved the decree №258/2020 “On approval of the rotation scheme of members of the National Energy and Utilities Regulatory Commission” according to which following rotation is applied to members of the NEURC:

- until 1 July 2020 to Antonova Olena;
- until 1 July 2021 to Kryvenko Oksana;
- until 1 July 2023 to Magda Oleksii;
- until 1 July 2024 to Babii Olga and Kovalenko Dmytro;
- until 1 July 2025 to Kaidash Ruslan and Tarasiuk Valerii.

The Cabinet of Ministers of Ukraine

At the meeting held on 25 June 2020, the Cabinet of Ministers of Ukraine approved the list of members of the Competition Commission for selection of candidates for the positions of members of the NEURC.

The list of members of the Competition Commission includes:

- 1) Oleksii Riabchyn, 2) Svitlana Golikova, 3) Oleg Prokhorenko (elected from the Verkhovna Rada of Ukraine);
- 4) Sergii Chekh (elected from the Ministry of Energy of Ukraine);
- 5) Yurii Andriichuk (elected from the Ministry of Community and Territories Development of Ukraine).

National Energy and Utilities Regulatory Commission

Draft statutory instruments of the NEURC published for their further discussion

At the meeting on 24 June 2020, the NEURC approved a draft resolution “On approval of the Procedure for Investigation of Violations of Legislation on Functioning of Electricity and Natural Gas Markets”.

Draft resolution of the NEURC with substantiating materials was published on the official website of the NEURC for their discussion by the market participants - see the link http://www.nerc.gov.ua/data/filearch/Proekty/2020/pr_146/pr_146-2020.zip

As the draft resolution is being published for discussion for the second time, the deadline for comments and suggestions is set by 4 July 2020 (inclusive).

At the meeting on 26 June 2020 the NEURC approved:



draft resolution of the NEURC “On Amendments to the Resolution of the NEURC dated 10 December 2019 No. 2669” (concerning revision of the tariff for services of dispatching (operational-technological) management of PJSC NPC “Ukrenergo”);

draft resolution of the NEURC “On Amendments to the Resolution of the NEURC dated 10 December 2019 No. 2668” (concerning revision of the tariff for services of electricity transmission of PJSC NPC “Ukrenergo”);

Draft resolutions of the NEURC with substantiating materials were published on the official website of the NEURC for their discussion by the market participants - see the link

http://www.nerc.gov.ua/data/filearch/Proekty/2020/pr_148/pr_148-2020.pdf

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The open discussion was scheduled to take place remotely with technical means on 7 July 2020 at 8 a.m.