



From:
Canada-Ukraine Chamber of Commerce
European-Ukrainian Energy Agency
French-Ukrainian Chamber of Commerce and Industry
Norwegian-Ukrainian Chamber of Commerce
Swedish Business Association in Ukraine
Turkish-Ukrainian Business Association
Ukrainian-Swiss Business Association
U.S.-Ukraine Business Council

To:
Head of the NEURC
Valeriy Tarasiuk

Date: November 30, 2021

Subject: Regarding setting the tariff for electricity transmission services of NPC “Ukrenergo” for 2022” and ensuring Ukraine's obligations to the IMF and other international financial institutions, investors in renewable energy sources, signed by the President of Ukraine, the Cabinet of Ministers of Ukraine and the NEURC.

Dear Mr. Tarasiuk,

On behalf of international business associations, chambers of commerce from such countries as Canada, France, Norway, Turkey, Sweden, Switzerland, the USA uniting foreign investors in various sectors of the Ukrainian economy, including the renewable energy sector in Ukraine, which have made significant investments in the construction of power plants using clean energy sources with deep respect, we address you with the following.

The NEURC scheduled the meeting on December 1, 2021 to adopt the resolution on tariff setting for electricity transmission services of NPC Ukrenergo for 2022. The draft resolution together with the justification has been published on the official website of the NEURC.¹

After reviewing the published materials, we would like to make the following comments, mainly related to the fact that the TSO tariff planned to be approved by NEURC is significantly lower than required by NPC “Ukrenergo”, which will inevitably lead to accumulation of new debts to producers of electricity from renewable energy sources (RES producers) in the amount of about UAH 20 billion and will violate a number of international agreements signed by Ukraine in person of the President of Ukraine, the Prime Minister of Ukraine, the Cabinet of Ministers and the NEURC, in particular:

¹ https://www.nerc.gov.ua/data/filearch/Materialy_zasidan/2021/gruden/01.12.2021/p14_01-12-21.pdf

1. NEURC continues to ignore the mechanism of financing the activities of SE “Guaranteed Buyer” stipulated in Article 65, Part 7 of the Law of Ukraine “On the Electricity Market” and does not provide full financing of the service to increase the share of electricity from renewable sources at cost of the tariff for electricity transmission services of NPC “Ukrenergo”. In particular, the NEURC reduced the amount of compensation for RES producers “for expenditures stipulated in the State Budget for financial support of SE “Guaranteed Buyer” to pay for electricity produced from renewable energy sources” by 20% of their expected FIT revenues in 2022. Furthermore, according to the Draft Law on State Budget voted in the first reading, in 2022 the State Budget will not provide for any expenditures for financial support of the SE “Guaranteed Buyer” and RES producers.

2. It should be noted that approval of the electricity transmission tariff of NPC “Ukrenergo” at the level that does not cover the company’s reasonable economic costs contradicts Ukraine’s commitments to international partners, in particular, to the International Monetary Fund. Thus, according to the Clause 33(a) of the Memorandum of Economic and Fiscal Policies signed by the President of Ukraine and the Prime Minister of Ukraine on 8 November 2021, Ukraine has made the following commitments:

“The state-owned Guaranteed Buyer will no longer accumulate arrears to renewable energy producers from 2022 onwards... To that end, we will ensure that the regulator (NEURC) sets the Transmission System Operator (TSO) transmission tariff at a level sufficient to cover — in addition to material and labor expenses, capital expenditures, dividend payments, and profit tax — all obligations to renewable producers (including 100 percent of the value of estimated output of electricity volume produced for the relevant year) as well as financial expenses in relation to debt service and principal payment of existing and planned borrowing...”

3. In addition, according to the Agreement on measures to ensure the fulfilment of obligations under the debt repayment agreement of PJSC NPC “Ukrenergo” to the State for the fulfilment of guarantee obligations concluded by the Ministry of Finance of Ukraine and PJSC NPC “Ukrenergo” (Trilateral Agreement) dated 5 November 2021 signed by the NEURC, the obligations of the NEURC include, in particular, the following:

“4.2. To take all necessary measures to set and keep the Tariff in the amount sufficient to ensure full coverage of costs to the Borrower, including the service to ensure the share of electricity production from alternative sources in accordance with the applicable laws.”

4. We would also like to remind you that in June 2020, together with the Prime Minister of Ukraine and Acting Minister of Energy of Ukraine, in the framework of the mediation conducted by the Energy Community Secretariat, you signed a Memorandum of Understanding with the relevant associations of the RES investors. It included the following commitment on the part of Ukraine:

“3. The State Authorities of Ukraine shall ensure full and timely current payment by the Guaranteed Buyer to the RES Producers for the electricity delivered by

them, starting from the month following the month in which the Law on the Agreements comes into force” (note: the Law refers to the Law of Ukraine No. 810, which entered into force on August 1, 2020).

Based on the above, while considering this issue at the meeting scheduled on 1 December 2021, we would like to ask you to review the structure and size of the tariff for electricity transmission services of NPC “Ukrenergo” for 2022 to provide sufficient funds for 100% payment by the SE “Guaranteed Buyer” for electricity purchased in 2021-2022 from RES producers operating at FIT.

This decision will not only result in meeting the requirements of applicable laws of Ukraine, in particular the Law of Ukraine “On the Electricity Market”; it will also ensure Ukraine's fulfilment of international commitments (signed by the President of Ukraine, the Cabinet of Ministers of Ukraine, and the NEURC) to the IMF, other international financial institutions, RES investors, and investors in NPC “Ukrenergo” bonds.

Thank you in advance for reviewing our letter and we remain at your disposal to provide any additional comments and clarifications. Responsible person Iryna Pashchuk iryna.pashchuk@euea-energyagency.org.

Sincerely,

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