



European-Ukrainian Energy Agency

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Dated 29 November 2021

Chairman of the NEURC

Mr. V. Tarasiuk

Copy:

Minister of Energy of Ukraine

Mr. G. Galuschenko

Minister of Finance of Ukraine

Mr. S. Marchenko

IMF Resident Representative in Ukraine

Mr. Vahram Stepanyan

World Bank Regional Country Director for Eastern Europe (Belarus, Moldova and Ukraine)

Dr. Arup Banerji

Managing Director, Eastern Europe and the Caucasus (EEC) at the European Bank for Reconstruction and Development (EBRD)

Mr. Matteo Patrone

Chairman of Energy Community Secretariat Dispute Resolution and Negotiation Centre

Mr. Dirk Buschle

EU Ambassador, Head of the EU Delegation to Ukraine

Mr. Matti Maasikas

[On adoption of the NEURC resolution "On tariff setting for electricity transmission services of NPC "Ukrenergo" for 2022]

Dear Mr. Tarasiuk!

On behalf of the European-Ukrainian Energy Agency (EUEA), which unites leading international and Ukrainian investors with a total investment of over € 3.5 billion in the renewable energy sector in Ukraine, used to build power plants using the energy from sun, wind and biomass, with deep respect we address you with the following.



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

Having reviewed the published materials, we would like to make the following comments:

1. the NEURC ignored the comments and suggestions sent by EUEA in the letter dated 15 November 15 as well as proposals expressed at the public discussion of the tariff held on 24 November 2021. In particular, this concerns the underfinancing of the costs “to ensure an increase in the share of electricity production from renewable sources, except for private households” within the tariff. According to our calculations, the difference between the relevant costs (according to Ukrenergo’s estimates) and the costs agreed by the NEURC is about **UAH 20 billion**. Thus, the Regulator creates conditions for a **material deficit in 2022 in the settlements between the SE “Guaranteed Buyer” and RES producers** operating at feed-in tariff (FIT).
2. In addition, the 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”**.
3. 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. Please note that on 2 November 2021 the Verkhovna Rada of Ukraine adopted the draft Law of Ukraine “On the State Budget of Ukraine for 2022” (registration No. 6000 dated 15.09.2021) in the first reading. According to Part 3 of the Final Provisions, validity of Part 3 of Article 8 of the Law of Ukraine “On Alternative Energy Sources” will be terminated for 2022. Accordingly, **in 2022 the State Budget will not provide for any expenditures for financial support of the SE “Guaranteed Buyer”**.
4. Moreover, the tariff for electricity transmission services of NPC “Ukrenergo” for 2022 **does not provide for the funds necessary to ensure 100% payment by the SE “Guaranteed Buyer” for electricity purchased in 2021** at FIT from RES producers. Currently, this deficit is about **UAH 10 billion** because the NEURC failed to ensure the corresponding compensation in the tariff for electricity transmission services of NPC “Ukrenergo” for 2021. In addition, the Regulator ignored the provisions of Part 7 of Article 65 of the Law of Ukraine “On the Electricity Market” and the fact that in 2021 no expenditures were made from the State Budget to support the SE “Guaranteed Buyer” (thus, the corresponding deficit amount had to be financed from the tariff for electricity transmission services of NPC “Ukrenergo”).



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5. 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..."*

6. 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.**"*

7. 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.**



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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.

Sincerely,

Oleksandra Gumeniuk

Director

European-Ukrainian Energy Agency

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