THE LAW OF UKRAINE

On the National Commission for Regulation of the Communal Services Market of Ukraine

This Law establishes legal foundation for organization of activity of the National Commission for Regulation of the Communal Services Market of Ukraine – an official joint body of executive power that exercises state regulation in the field of heat supply (except for activity of economic entities that carry out combined heat and electric power production and/or use non-traditional or renewable energy sources), centralized water supply and disposal.

Article 1. Definition of Terms

1. In this Law the terms below shall be used in the following meaning:

1) natural monopoly entity – an economic entity of any form of ownership which is engaged on the market holding a natural monopoly status in the areas of centralized water supply and water disposal and transportation via trunk and local (distribution) heat supply networks;

2) economic entity operating on the related market – an economic entity engaged in the generation of thermal energy (except for cases when it is used exclusively for intra-production purposes) and in centralized supply of thermal energy;

3) communal services tariffs – tariffs for thermal energy (except for tariffs for thermal energy generation at combined heat and power stations, thermal power stations, nuclear power stations, cogeneration plants and plants that use non-traditional or renewable energy sources), thermal energy transportation via trunk and local (distribution) heat supply networks, and tariffs for centralized water supply and disposal.

2. In this Law the terms “natural monopoly” and “related market” shall be used in the meanings set forth in the Law of Ukraine “On Natural Monopolies”.

Article 2. Status of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The National Commission for Regulation of the Communal Services Market of Ukraine is an official joint body of executive power that exercises state regulation in the field of heat supply (except for activity of economic entities that carry out combined heat and electric power production and/or use non-traditional or renewable energy sources), centralized water supply and disposal.
2. The National Commission for Regulation of the Communal Services Market of Ukraine shall exercise its powers in accordance with the Constitution and laws of Ukraine independently of other state power bodies, local self-government bodies, their officials, economic entities, political parties and other public associations.

3. The central office and territorial bodies of the National Commission for Regulation of the Communal Services Market of Ukraine shall ensure implementation of its powers.

The territorial bodies shall act on the basis of regulations that shall be approved by the Chairman of the National Commission for Regulation of the Communal Services Market of Ukraine.

Article 3. Objectives of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The main objective of the National Commission for Regulation of the Communal Services Market of Ukraine shall be to exercise state regulation of activities of natural monopoly entities and economic entities operating on the related markets by way of:

1) balancing the interests of economic entities, consumers and the state;

2) ensuring transparency of activities in the natural monopoly markets and related markets in the field of heat supply and centralized water supply and disposal;

3) protecting the rights of consumers of the goods and services as regards receipt of these goods and services of proper quality and in sufficient amounts at economically justified prices, as well as stimulating the enhancement of their quality and satisfaction of demand in them;

4) shaping and ensuring the predictability of price and tariff policy on the markets holding a natural monopoly status and related markets in the field of heat supply and centralized water supply and disposal, and facilitating the introduction of stimulation methods of price regulation;

5) ensuring the self-sufficiency of natural monopoly entities and economic entities operating on the related markets;

6) ensuring equal opportunities for the access of consumers to the goods (services) on the markets holding a natural monopoly status;

7) restricting the influence of natural monopolists on state policy and facilitating competition on the related markets in the field of heat supply and centralized water supply and disposal in order to ensure the efficient operation of respective sectors.
Article 4. Main Principles of Operation of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The main principles of operation of the National Commission for Regulation of the Communal Services Market of Ukraine shall be as follows:

   1) legality;
   2) openness, accessibility and transparency of the state regulation procedure;
   3) independence and predictability of the state regulation of activities of natural monopoly entities and economic entities operating on the related markets for consumers and the society;
   4) collegiality, independence and impartiality of decision-making;
   5) targeted regulation focused on specific natural monopoly entities and economic entities operating on the related markets;
   6) protection of the rights of consumers of goods (services) on the markets holding a natural monopoly status and on related markets in the field of heat supply and centralized water supply and disposal;
   7) responsibility for decision-making and compensation of caused damages to natural monopoly entities and economic entities operating on the related markets.

Article 5. Ways of Regulatory Influence on Activities of Natural Monopoly Entities and Economic entities operating on the related Markets

The National Commission for Regulation of the Communal Services Market of Ukraine shall use the following ways of regulatory influence on activities of natural monopoly entities and economic entities operating on the related markets:

1) licensing of economic activity and control over compliance with licensing terms;
2) establishment of communal services tariffs for natural monopoly entities and economic entities operating on the related markets;
3) establishment of individual technological norms of potable water use for natural monopoly entities that carry out the activity in the field of centralized water supply and disposal;
4) other ways envisaged by the current Ukrainian legislation.
Article 6. Powers of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The National Commission for Regulation of the Communal Services Market of Ukraine shall:

1) take part in formulating and executing of the state policy in the field of heat supply, centralized water supply and disposal;

2) perform the following:

   licensing of the economic activity of centralized water supply and disposal in the amounts that exceed the level established by terms and rules of conducting of the economic activity (licensing terms); development and approval of licensing terms and the procedure of control of compliance with them;

   licensing of the economic activity of thermal energy generation (except for the activity of thermal energy generation at combined heat and power stations, thermal power stations, nuclear power stations, cogeneration plants and plants that use non-traditional or renewable energy sources), thermal energy transportation via trunk and local (distribution) heat supply networks, and thermal energy supply in the amounts that exceed the level established by terms and rules of conducting of the economic activity (licensing terms);

   development and approval of licensing terms and the procedure of control of compliance with them in the field of heat supply;

   development of procedures (methods) of establishment of communal services tariffs for the natural monopoly entities and economic entities operating on the related markets, activities of which are subject to licensing by the National Commission for Regulation of the Communal Services Market of Ukraine;

   establishment of communal services tariffs for the natural monopoly entities and economic entities operating on the related markets, activities of which are subject to licensing by the National Commission for Regulation of the Communal Services Market of Ukraine;

   exercising supervision (control) over the activities of the natural monopoly entities and economic entities operating on the related markets and imposition of appropriate sanctions for violation of terms and rules of conducting of specific types of economic activity;

3) establish requirements for natural monopoly entities for conducting economic activities that do not belong to a natural monopoly scope, if such activities affect a market holding a natural monopoly status;

4) identify the natural monopoly entities whose activity is regulated under the present Law, compile and maintain sectoral registers of such economic entities;

5) constantly monitor and analyze the markets that hold a natural monopoly status in the field of heat supply and centralized water supply and disposal, and forecast the status
of development of these markets;

6) take measures to restrict monopolization, regulate the conditions of conducting economic activities, and also facilitate the creation of conditions for withdrawing commodity markets in the field of heat supply and centralized water supply and disposal from their natural monopoly status and develop competition on the related markets;

7) establish the minimal limits of goods (services) production amounts, below which the natural monopoly entities and economic entities operating on the related markets in the field of heat supply and centralized water supply and disposal may conduct their activities without licenses;

8) exercise control to prevent cross subsidizing during conducting of economic activities by the natural monopoly entities and economic entities operating on the related markets, which results or might result in prevention, elimination, restriction or distortion of competition;

9) establish restrictions for combining economic activity types by the natural monopoly entities and economic entities operating on the related markets;

10) provide conclusions on conformity of liquidation, reorganization in the forms of amalgamation, consolidation, participation in associations, and also acquisition or alienation of over 25 percent of shares (stock) of assets of natural monopoly entities and economic entities operating on the related markets with terms and rules of licensed activity conducting;

11) exercise control over the proper use of the funds, amounts of which are envisaged by the structure of tariffs received as a result of conducting of the licensed activity by natural monopoly entities and economic entities operating on the related markets;

12) exercise control over the implementation of the investment programs of natural monopoly entities and economic entities operating on the related markets for renewing fixed assets, raising the efficiency and reducing costs in the pursuance of the activity that is subject to regulation;

13) within its powers exercise control over the quality of the goods produced by natural monopoly entities and economic entities operating on the related markets or services provided by such entities;

14) prepare and approve rules of thermal energy use, rules of connection to heat and water distribution networks and model contracts envisaged by these rules;

15) establish the procedure of formation of payment for connection to networks of natural monopoly entities and exercise control over compliance with it;

16) in accordance with the established procedure determine individual technological norms of potable water use for natural monopoly entities whose activities are subject to licensing by the Commission;

17) in compliance with the Code of Administrative Offences of Ukraine, draw up protocols on violations of legislation on heat supply, on centralized water supply and
disposal and on natural monopolies by officials of natural monopoly entities and economic entities operating on the related markets;

18) make decisions to apply administrative and economic sanctions (penalties) to natural monopoly entities and economic entities operating on the related markets in the cases and in the amounts envisaged by law;

19) submit to the agencies of the Antimonopoly Committee of Ukraine information that might evidence violations on legislation on the protection of economic competition;

20) ensure creation of favourable conditions for attraction of investments for development of communal services market infrastructure;

21) facilitate creation of equal conditions for activities of natural monopoly entities and economic entities operating on the related markets;

22) found mass media outlets to cover the issues of its activity and regulation of activities of natural monopoly entities and economic entities operating on the related markets;

23) prepare and approve the Regulations on the National Commission for Regulation of the Communal Services Market of Ukraine (hereinafter referred to as “the Regulations”);

24) participate in regulation of payment and settlement operations in the field of heat supply and centralized water supply and disposal in accordance with legislation;

25) exercise other powers envisaged by law.

2. In order to fulfil the tasks and functions vested on it, the National Commission for Regulation of the Communal Services Market of Ukraine shall have the right to:

1) appeal to court in order to protect the interests of the state, consumers, natural monopoly entities and economic entities operating on the related markets on the grounds envisaged by legislation;

2) receive at no charge: from natural monopoly entities and economic entities operating on the related markets – statistical reports in the scope, under the procedure and at the time set by legislation;

from central and local bodies of executive power, bodies of local self-government – documents, materials, statistical and other information determined by legislation.

Article 7. Composition and the Procedure of Forming the National Commission for Regulation of the Communal Services Market of Ukraine

1. The composition of the National Commission for Regulation of the Communal Services Market of Ukraine shall include a Chairman and four members of the Commission that shall be appointed and dismissed by the Cabinet of Ministers of Ukraine upon submission of the Prime Minister of Ukraine.
2. The Chairman and four members of the National Commission for Regulation of the Communal Services Market of Ukraine shall be appointed for the term of six years.

3. The Chairman and members of the National Commission for Regulation of the Communal Services Market of Ukraine may not hold their offices for more than a total of twelve years.

4. The National Commission for Regulation of the Communal Services Market of Ukraine shall be competent from the moment its full composition is appointed.

5. A citizen of Ukraine, which has obtained a higher education (specialized, economic or juridical), and has work experience at managerial posts in the appropriate field for not less than three years during the recent ten years may be appointed as the Chairman or member of the National Commission for Regulation of the Communal Services Market of Ukraine.

6. The Chairman and members of the National Commission for Regulation of the Communal Services Market of Ukraine shall not be owners of corporate rights of natural monopoly entities and economic entities operating on the related markets, receive financial or material reward or benefits from them or hold any other position, including on a voluntary basis.

7. The Chairman or member of the National Commission for Regulation of the Communal Services Market of Ukraine may be dismissed from the post in case of:

1) submitting a letter of resignation;
2) renunciation of citizenship of Ukraine;
3) impossibility to fulfil his/her duties because of health condition;
4) entry of court judgement regarding him/her into legal force;
5) violation of restrictions envisaged by the sixth part of this article;
6) expiration of the term of his/her appointment;
7) on other grounds envisaged by the civil service legislation.

8. In case of dismissal of the Chairman or member of the National Commission for Regulation of the Communal Services Market of Ukraine the Cabinet of Ministers of Ukraine shall appoint a new Chairman or member of the Commission within one month. The term of powers of the newly appointed Chairman or member of the Commission shall correspond to the term of powers of the National Commission for Regulation of the Communal Services Market of Ukraine.

Article 8. Organization of Activity of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The Chairman of the National Commission for Regulation of the Communal Services Market of Ukraine shall:
1) organize the activity of the National Commission for Regulation of the Communal Services Market of Ukraine, its central office and territorial bodies, facilitate quick and efficient settlement of matters within the scope of competence of the Commission;

2) chair the sessions of the Commission;

3) represent the Commission in the relations with state power bodies, enterprises, organizations and institutions;

4) approve the structure of the central office and territorial bodies of the Commission;

5) submit the annual report on the activity of the National Commission for Regulation of the Communal Services Market of Ukraine and information about the situation on the communal services market during the last year to the Cabinet of Ministers of Ukraine;

6) report on the issues related to the activity of the Commission at sessions of the Cabinet of Ministers of Ukraine;

7) make decisions in accordance with the legislation on creation, reorganization, liquidation of territorial bodies of the Commission, and approve regulations on them;

8) issue orders on the issues of the activity of the central office and territorial bodies of the Commission;

9) appoint and dismiss employees of the central office and head officials of territorial bodies of the Commission;

10) approve the regulations on structural subdivisions of the central office of the Commission;

11) execute other powers in accordance with legislation.

2. The organizational form of work of the National Commission for Regulation of the Communal Services Market of Ukraine shall be its sessions that shall be held in accordance with the Regulations.

3. The sessions of the National Commission for Regulation of the Communal Services Market of Ukraine shall be held in the form of open or closed hearings. A session of the National Commission for Regulation of the Communal Services Market of Ukraine shall be competent if attended by not less than three of its members.

4. Decisions of the National Commission for Regulation of the Communal Services Market of Ukraine shall be made at its sessions by a majority vote of its entire composition. The Chairman and each member of the Commission shall have one vote each. In case of equal distribution of votes, the Chairman’s vote shall be decisive.

5. The National Commission for Regulation of the Communal Services Market of Ukraine shall make decisions in the form of resolutions and orders within the limits of its powers on the grounds and in execution of legislation.

6. Decisions of the National Commission for Regulation of the Communal Services Market of Ukraine shall not be subject to state registration except for decisions that are of interdepartmental nature and affect rights, freedoms and legitimate interests of citizens,
and shall not require approval of other bodies of state power except for cases envisaged by law.

7. Operation of the legislation on the state regulatory policy shall not apply to resolutions (orders) of the National Commission for Regulation of the Communal Services Market of Ukraine regarding establishment of communal services tariffs.

8. Decisions of the National Commission for Regulation of the Communal Services Market of Ukraine made within its scope of competence shall be legally binding for natural monopoly entities and economic entities operating on the related markets.

9. Decisions of the National Commission for Regulation of the Communal Services Market of Ukraine may be challenged in accordance with the procedure established by law.

10. Illegal interference of state power bodies, their officials, local self-government bodies, public associations and their representatives in the activity of the National Commission for Regulation of the Communal Services Market of Ukraine shall be prohibited.

Article 9. Openness of the Activity of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The National Commission for Regulation of the Communal Services Market of Ukraine shall take measures to ensure openness of its activity.

2. Session agendas of the National Commission for Regulation of the Communal Services Market of Ukraine and its decisions shall be promulgated in accordance with the procedure established by the Legislation.

3. When matters of public importance are considered, the sessions shall be held as open hearings, in which natural monopoly entities and economic entities operating on the related markets, organizations representing the interests of consumers and NGOs shall have the right to participate in accordance with the procedure established by the National Commission for Regulation of the Communal Services Market of Ukraine.

4. In order to protect the rights of consumers, the National Commission for Regulation of the Communal Services Market of Ukraine shall cooperate with the organizations representing the interests of the consumers and provide such organizations and consumers with information about the activity of the natural monopoly entities and economic entities operating on the related markets, except for cases when the information is of restricted access.

5. Consumers shall have the right to apply to the National Commission for Regulation of the Communal Services Market of Ukraine to deal with matters within its competence. The National Commission for Regulation of the Communal Services Market of Ukraine shall consider such petitions and make decisions in accordance with its powers.

6. The National Commission for Regulation of the Communal Services Market of
Ukraine shall inform the public, including all-Ukrainian associations of employers and entrepreneurs, all-Ukrainian trade unions and professional associations, about results of its work, publish in mass media and official publications (compilations) the regulatory legal acts and information envisaged by legislation and other information, maintain its Internet site.

Article 10. The Procedure of Making and Establishing Communal Services Tariffs for Natural Monopoly Entities and Economic Entities Operating on the Related Markets

1. Communal services tariffs shall be made by natural monopoly entities and economic entities operating on the related markets in accordance with procedures (methods) established by the National Commission for Regulation of the Communal Services Market of Ukraine according to this Law.

2. Communal services tariffs of natural monopoly entities and economic entities operating on the related markets shall ensure reimbursement of all economically substantiated planned expenses for their production with due account for the planned income.

3. Regulations on establishment of tariffs with deviations from the economically substantiated level shall be approved by the Cabinet of Ministers of Ukraine.

4. Establishment of communal services tariffs that are lower than economically substantiated expenses for their production without appropriate reimbursement shall be prohibited and may be appealed against in court.

Article 11. State Supervision (Control) over the Communal Services Market

1. State supervision (control) over the communal services market shall be exercised by means of checking the status of compliance by natural monopoly entities and economic entities operating on the related markets with the requirements of legislation and licensing terms.

2. For exercising state supervision (control) over the communal services market, the officials of the National Commission for Regulation of the Communal Services Market of Ukraine and its territorial bodies shall have the right to:

1) direct access to the territory and premises of natural monopoly entities and economic entities operating on the related markets, provided the requirements of legislation on the procedure of state supervision (control) are complied with;

2) conduct routine and extraordinary inspections;

3) within their powers, issue mandatory precepts to natural monopoly entities and economic entities operating on the related markets in order to rectify violations of regulatory legal acts;
4) apply administrative sanctions to the officials of natural monopoly entities and economic entities operating on the related markets in the amounts and in accordance with the procedures established by the Code of Administrative Offences of Ukraine, for the following:

untimely submission of the documents necessary for the National Commission for Regulation of the Communal Services Market of Ukraine to exercise its powers, and information envisaged by legislation;

non-submission of information to the National Commission for Regulation of the Communal Services Market of Ukraine and its territorial bodies or submission of misleading information by officials of natural monopoly entities and economic entities operating on the related markets in the field of heat supply, rendering services on centralized hot water supply and centralized heating (if these services are rendered by a natural monopoly entity), centralized water supply and disposal;

obstruction or non-admission to heat supply and centralized water supply and disposal systems of officials of the National Commission for Regulation of the Communal Services Market of Ukraine and its territorial bodies in the process of performance of their official duties;

non-fulfilment or untimely fulfilment of resolutions or precepts of officials of the National Commission for Regulation of the Communal Services Market of Ukraine by natural monopoly entities and economic entities operating on the related markets in the field of heat supply and centralized water supply and disposal.

Article 12. Funding the Activity of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The activity of the National Commission for Regulation of the Communal Services Market of Ukraine shall be funded at the expense of the State Budget of Ukraine.

2. The funds for maintenance of the National Commission for Regulation of the Communal Services Market of Ukraine and its territorial bodies, including the expenditures for remuneration of the work of its members and employees of the Central Office and territorial agencies, shall be stipulated in the Law on the State Budget of Ukraine for the respective year.

3. Payment for the services provided by the National Commission for Regulation of the Communal Services Market of Ukraine to natural persons and legal entities in cases stipulated by Ukrainian laws – in particular, for awarding licenses to pursue certain types of economic activity – shall be transferred to the State Budget of Ukraine in accordance with the Law on the State Budget of Ukraine for the respective year.

Article 13. Scientific Methodological and Information Support of the Activity of the National Commission for Regulation of the Communal Services Market of Ukraine
1. In order to fulfil the tasks vested on the National Commission for Regulation of the Communal Services Market of Ukraine, it shall create scientific, consultation and other advisory bodies and approve the regulations on them.

2. The National Commission for Regulation of the Communal Services Market of Ukraine shall engage scientists, experts, consultants, and representatives of the public for the scientific methodological and informational support of its activity and for making decisions on the issues of balancing the interests of economic entities.

Article 14. Interaction of the National Commission for Regulation of the Communal Services Market of Ukraine with the National Electricity Regulation Commission

1. The National Commission for Regulation of the Communal Services Market of Ukraine shall interact with the National Electricity Regulation Commission on the issues of state regulation of activity of economic entities that perform combined heat and electric power generation and/or use alternative energy sources in the field of heat supply, in the process of joint development of methodology (procedure) of tariff establishment for natural monopoly entities and economic entities operating on the related markets in the field of heat supply.

Article 15. Interaction of the National Commission for Regulation of the Communal Services Market of Ukraine with the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol City State Administrations

1. The National Commission for Regulation of the Communal Services Market of Ukraine shall interact with the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations on the issues of state regulation of activity of natural monopoly entities and economic entities operating on the related markets in the process of licensing their activities.

2. The National Commission for Regulation of the Communal Services Market of Ukraine shall exercise control over compliance of the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations with the legislation in the process of licensing of activities of natural monopoly entities and economic entities operating on the related markets.

Article 16. International Cooperation

1. The National Commission for Regulation of the Communal Services Market of Ukraine shall:

   cooperate with the appropriate bodies of foreign states, in accordance with the established procedure participate in preparation of draft international agreements of
Ukraine, conclude international agreements of Ukraine of interdepartmental nature in accordance with law;

study, sum up and spread experience of foreign states, participate in attraction and coordination of international technical assistance, represent Ukraine’s interests in international organizations in accordance with the established procedure.

Article 17. Responsibility of Officials of Natural Monopoly Entities and Economic Entities Operating on the Related Markets

1. The National Commission for Regulation of the Communal Services Market of Ukraine shall impose administrative penalties in the form of fines on officials of natural monopoly entities and economic entities operating on the related markets for the following:

1) untimely submission of information necessary for the National Commission for Regulation of the Communal Services Market of Ukraine to fulfil the tasks vested on it;

2) non-submission of information or submission of misleading information;

3) non-fulfilment or untimely fulfilment of resolutions of the National Commission for Regulation of the Communal Services Market of Ukraine, violation of licensing terms.

2. Resolutions on imposition of fines may be appealed against in court.

Article 18. Responsibility of Officials of the National Commission for Regulation of the Communal Services Market of Ukraine

1. The Chairman and members of the National Commission for Regulation of the Communal Services Market of Ukraine as well as the officials of its central office and territorial bodies shall be liable under legislation for violations of the present Law and other legislative acts, as well as for failure to perform or to perform properly their official duties that resulted in violations of legally protected rights and interests of natural monopoly entities and economic entities operating on the related markets.

2. Damages caused as a result of unlawful decisions, actions or lack of actions by the National Commission for Regulation of the Communal Services Market of Ukraine, which violate the norms of the present Law, shall be compensable in accordance with the procedure envisaged by legislation.

1. This Law shall come into force since the date of its publication.

2. Establish that:

formation of the National Commission for Regulation of the Communal Services Market of Ukraine, its central office and territorial bodies shall be completed before 1 January 2011;

licenses for conducting of certain types of activity in the field of heat supply and centralized water supply and disposal issued in accordance with the established procedure prior to entering into force of the present Law shall remain valid until expiration of their terms;

the National Electricity Regulation Commission of Ukraine shall perform state regulatory functions in the field of heat supply, centralized water supply and disposal until completion of formation of the National Commission for Regulation of the Communal Services Market of Ukraine. Until the National Electricity Regulation Commission of Ukraine establishes the tariffs for thermal energy, thermal energy transportation via trunk and local (distribution) networks, thermal energy supply, centralized water supply and disposal services, the tariffs established by respective executive power bodies and local self-government bodies in accordance with the procedure established by legislation shall remain valid.

3. The Cabinet of Ministers of Ukraine shall:

1) create the National Commission for Regulation of the Communal Services Market of Ukraine and ensure its formation before 1 January 2011;

2) within three months since approval of this Law, approve the regulatory legal acts envisaged by this Law, harmonize its regulatory legal acts and ensure harmonization of regulatory legal acts with this Law by executive power bodies;

4. Local self-government bodies shall harmonize their acts with this Law within three months.

5. Introduce changes to the following legislative acts of Ukraine:

1) in the Code of Administrative Offences of Ukraine (Gazette of the Verkhovna Rada of URSR, 1984, appendix to No. 51, p. 1122):

shall be amended by adding the following articles 18836 and 24418:

“Article 18836. Failure to fulfil legitimate demands of officials of the National Commission for Regulation of the Communal Services Market of Ukraine

Untimely submission of information necessary for the National Commission for Regulation of the Communal Services Market of Ukraine to fulfil the tasks vested on it, -
shall result in imposition of a fine on officials of natural monopoly entities or economic entities operating on the related markets in the field of heat supply and centralized water supply and disposal in the amount of up to two hundred tax-exempt minimum wages.

Non-submission of information to the National Commission for Regulation of the Communal Services Market of Ukraine or submission of misleading information by officials of natural monopoly entities or economic entities operating on the related markets in the field of heat supply and centralized water supply and disposal –

shall result in imposition of a fine on officials of such economic entities in the amount of up to one thousand tax-exempt minimum wages.

Non-fulfilment or untimely fulfilment of resolutions of the National Commission for Regulation of the Communal Services Market of Ukraine by natural monopoly entities or economic entities operating on the related markets in the field of heat supply and centralized water supply and disposal, violation of licensing terms –

shall result in imposition of a fine on officials of such economic entities in the amount of up to five thousand tax-exempt minimum wages”;

“Article 244\textsuperscript{18}. National Commission for Regulation of the Communal Services Market of Ukraine

The National Commission for Regulation of the Communal Services Market of Ukraine shall review cases of administrative offences envisaged by the article 188\textsuperscript{36}.

The Chairman and members of the National Commission for Regulation of the Communal Services Market of Ukraine shall have the right to review cases of administrative offences and impose administrative penalties on behalf of the Commission”;

in the second part of the article 255:

in the first paragraph the numbers “222 - 244\textsuperscript{17}” shall be replaced by the numbers “222 - 244\textsuperscript{18}”;

shall be amended by adding the following clause 18:

“18) officials of the National Commission for Regulation of the Communal Services Market of Ukraine”;

2) the third paragraph of the article 4 of the Law of Ukraine “On Prices and Price Formation” (Gazette of the Verkhovna Rada of URSR, 1990, No. 52, p. 650; Gazette of the Verkhovna Rada of Ukraine, 1998, No. 33, p. 225; 2004, No. 12, p. 155) shall be amended by adding the words “power generating industry, centralized heat supply, water supply and disposal”; 

170) shall be worded as follows:

“2) establishment, in accordance with the procedure and within the limits established by legislation, of tariffs for consumer, communal (except for tariffs for thermal energy, centralized water supply and disposal, which shall be established by the National Commission for Regulation of the Communal Services Market of Ukraine), transport and other services”;


the first part of the article 4 shall be amended by adding the following fifth paragraph:

“The National Commission for Regulation of the Communal Services Market of Ukraine that acts in accordance with the Law of Ukraine “On the National Commission for Regulation of the Communal Services Market of Ukraine” shall be the body of state regulation of natural monopoly entities and economic entities operating on the related markets in the field of centralized water supply and disposal, heat supply (except for activities on thermal energy generation at combined heat and power stations, thermal power stations, nuclear power stations, cogeneration plants and plants that use non-traditional or renewable energy sources)”;

the tenth paragraph of the first part of the article 5 shall be worded as follows:

“thermal energy transportation”;

article 6 shall be amended by adding the following ninth paragraph:

“thermal energy supply”;


in the article 11:

the ninth paragraph of the first part shall be excluded;

shall be amended by adding the following third part:

“The National Commission for Regulation of the Communal Services Market of Ukraine shall be the body of state regulation of activities of natural monopoly entities and economic entities operating on the related markets in the field of centralized water supply and disposal in accordance with the Law of Ukraine “On Natural Monopolies”;

the eighth paragraph of the article 12 shall be worded as follows:

“licensing of economic activity on centralized water supply and disposal, amounts of which shall be established by licensing terms”;

in the article 13:

the seventh and eighth paragraphs shall be worded as follows:

“ensuring information of the public about potable water quality and potable water
supply condition;

establishment of tariffs for centralized water supply and disposal services except for tariffs for such services that shall be established by the National Commission for Regulation of the Communal Services Market of Ukraine”;

the ninth paragraph shall be excluded;


in the first part:

clause 4 shall be amended by adding the words “(except for tariffs for thermal energy, centralized water supply and disposal that shall be established by the National Commission for Regulation of the Communal Services Market of Ukraine)” after the words “formation of prices/tariffs for housing and communal services”; 

clause 10 shall be excluded;

clause 12 shall be amended by adding the words “(except for tariffs for thermal energy, centralized water supply and disposal that shall be established by the National Commission for Regulation of the Communal Services Market of Ukraine)”;

the third part shall be amended by adding the following second paragraph:

“The National Commission for Regulation of the Communal Services Market of Ukraine is an official joint body of executive power that exercises state regulation in the field of heat supply (except for activity of economic entities that carry out combined heat and electric power production and/or use non-traditional or renewable energy sources), centralized water supply and disposal”;

in the article 31:

the parts from the first to the fifth shall be worded as follows:

"1. The procedure of tariff formation for each type of housing and communal services of the second group (clause 2 of the first part of the article 14 of this Law) shall be established by the Cabinet of Ministers of Ukraine.

2. Executors/producers shall calculate economically substantiated expenditures for production (provision) of housing and communal services, and submit them to the bodies authorized to establish tariffs.

3. Local self-government bodies shall establish the tariffs for housing and communal services in the amounts not less than economically substantiated expenditures for their production.

During establishment of prices/tariffs for services produced by natural monopoly entities whose activities are subject to regulation by the National Commission for Regulation of the Communal Services Market of Ukraine and the National Electricity Regulation Commission of Ukraine in accordance with legislation, powers of local self-government bodies shall extend solely on the tariffs (tariff components), which shall not
be established by the National Commission for Regulation of the Communal Services Market of Ukraine.

4. In case of establishment of tariffs for housing and communal services by a local self-government body at a level that makes it impossible to obtain revenues, the body that approved the tariffs shall compensate the difference between the established amount of prices/tariffs and economically substantiated expenditures for production of these services to the executors/producers from the appropriate local budget.

5. Expenditures for compensation of corporate losses related to establishment of tariffs for housing and communal services at a level that makes it impossible to obtain revenues shall be funded at the expense of funds of the appropriate local budget; in the sixth part the word “Approval” shall be replaced by the word “Establishment”;


in the article 1:
the eighth paragraph shall be amended by adding the words “and objects and structures, main and supplementary equipment used to ensure safe and reliable operation of heat networks”;

in the thirteenth paragraph the words “heat supply (thermal energy supply)” shall be replaced by the words “the field of heat supply”;

the sixteenth and nineteenth paragraphs shall be worded as follows:
“autonomous heat supply system – house heating system used for heating of a separate multi-apartment building”;

“centralized heat supply system – a complex of interconnected thermal energy sources, trunk and local (distribution) heat networks used to provide heat to consumers, population centres, that includes decentralized and moderately centralized heat supply systems”;

in the fourth paragraph of the article 6 the words “moderately centralized, decentralized” shall be excluded;

in the article 7:
in the second paragraph the word “decentralized” shall be replaced by the word “autonomous”;

the sixth paragraph shall be worded as follows:
“reduction of transportation losses of thermal energy in trunk and local (distribution) heat networks by introduction of modern heat insulation types”;

the first part of the article 11 shall be amended by adding the following tenth paragraph:
“approval of heat supply schemes of population centres with population of over
20,000 and regional programs of heat supply system modernization”;

in the third part of the article 15:

in the third paragraph the words “central body of executive power in the field of heat supply” shall be replaced by the words “National Commission for Regulation of the Communal Services Market of Ukraine”;

shall be amended by adding the following fifth paragraph:

“Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations in accordance with law”;

in the article 16:

the title shall be worded as follows:

“Article 16. Powers of the National Commission for Regulation of the Communal Services Market of Ukraine in the field of heat supply”;

in the first paragraph the words “central body of executive power in the field of heat supply” shall be replaced by the words “National Commission for Regulation of the Communal Services Market of Ukraine”;

shall be amended by adding the following new four paragraphs after the third paragraph:

“licensing of the economic activity on thermal energy generation (except for the activity on thermal energy generation at combined heat and power stations, thermal power stations, nuclear power stations, cogeneration plants and plants that use non-traditional or renewable energy sources), thermal energy transportation via trunk and local (distribution) heat supply networks, thermal energy supply in the amounts exceeding the level established by the terms and rules of economic activity (licensing terms);

approval in accordance with the established procedure of the licensing terms for conducting economic activity on thermal energy generation (except for the activity on thermal energy generation at combined heat and power stations, thermal power stations, nuclear power stations, cogeneration plants and plants that use non-traditional or renewable energy sources), transportation and supply, and the procedure of control over their compliance;

design of the methodology (procedure) of making tariffs for thermal energy in the field of heat supply for the natural monopoly entities and economic entities operating on the related markets, activities of which are subject to licensing by the Commission;

establishment of thermal energy tariffs for the natural monopoly entities in the field of heat supply, activities of which are subject to licensing by the Commission”.

As a result, the paragraphs from fourth to sixth shall be deemed the paragraphs from eight to tenth respectively;

shall be amended by adding the following article 16і:

“Article 16і. Powers of the Council of Ministers of the Autonomous Republic of
Crimea, oblast, Kyiv and Sevastopol city state administrations in the process of regulation of activities in the field of heat supply

The powers of the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations in the process of regulation of activities in the field of heat supply shall include:

licensing of the economic activity on thermal energy generation (except for the activity on thermal energy generation at combined heat and power stations, thermal power stations, nuclear power stations, cogeneration plants and plants that use non-traditional or renewable energy sources), thermal energy transportation via trunk and local (distribution) heat supply networks, thermal energy supply in the amounts not exceeding the level established by the terms and rules of economic activity (licensing terms);

in accordance with their competence, exercising of control over compliance with the licensing terms”;

in the article 20:

the third part shall be worded as follows:

“Tariffs for thermal energy generation, transportation and supply, except for the tariffs for thermal energy production for the economic entities that perform combined heat and electric power generation and/or use non-traditional or renewable energy sources, shall be approved by the National Commission for Regulation of the Communal Services Market of Ukraine and local self-government bodies within their scopes of competence established by legislation”;

the eighth part shall be worded as follows:

“Bodies of state regulation of activities of natural monopoly entities shall make a decision on reduction of tariffs established by them by the amount of improper funds use if:

an economic entity in the field of heat supply uses funds for purposes and/or in amounts not envisaged by a technical development program or investment program;

an economic entity in the field of heat supply uses funds for purposes and/or in amounts not envisaged by the tariff structure”;

in the third part of the article 26 the word “decentralized” shall be replaced by the word “autonomous”;

in the third and fourth parts of the article 31 the words “National Electricity Regulation Commission of Ukraine” shall be replaced by the words “bodies of state regulation”.

President of Ukraine V. YANUKOVYCH

City of Kyiv

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