Implementation of the new Law of Ukraine on Regulation of Utility Service Market of Ukraine

NERC of Ukraine
2010
National legislation in the field of regulation in utility service markets

The sphere of utility services is regulated by the following:

- Law of Ukraine on Housing and Utility Services;
- Law of Ukraine “on Potable Water and Potable Water Supply;
- Law of Ukraine “on Heat Supply;
- Law of Ukraine “on Natural Monopolies;
- Law of Ukraine on Prices and Pricing;
- Law of Ukraine on Local Self-Governance;
- Law of Ukraine on Local State Administrations;
- Law of Ukraine “on the State Program for Reforms and Development of Housing and Utility Infrastructure for 2009-2014;
- The procedure of formation of tariffs for production, transportation, heat supply and services of district heating and hot water supply (approved by Decree of the CMU of 10.07.2006 No. 955);
- The procedure of formation of tariffs for services on centralized water supply and water discharge (approved by Decree of the CMU of 12.07.2006 No. 959);
- other normative documents (License conditions for carrying out activities, norms and standards, etc.).

09.07.2010 The President of Ukraine signed the Law of Ukraine On the National Utility Service Market Regulatory Commission – this Law creates in Ukraine an independent state regulatory body for housing and utility structure.
Way to creation of the utility service market regulator of Ukraine

- **22.07.2010** – Law of Ukraine on the National Utility Service Market Regulatory Commission came into effect;

- Article 19 of the Law of Ukraine on the National Utility Service Market Regulatory Commission envisions that provisionally, before the National Utility Service Market Regulatory Commission is established (01.01.2011) its functions are performed by the NERC of Ukraine;

- **11.08.2010** – Decree of the CMU No. 760 On certain issues of regulation of the utility service market regulation (according to this Decree the Ministry for Housing and Utility Infrastructure transferred to the NERC of Ukraine copies of issued licenses and other normative legal acts in the sphere of heat supply and centralized water supply and water discharge);

- **27.08.2010** – Decree of the CMU No. 1707-r On appointment of V.N. Kalchenko as a Commissioner of NERC of Ukraine* (an additional Commissioner was introduced in NERC, who would be responsible for regulation of the utility service sphere);

- **01.09.2010** – Decree of NERC No. 382 (coordinated by letter of the CMU of 15.09.2010 No. 53205/1/1-10) introduced an additional position of a Commissioner of the National Electricity Regulatory Commission of Ukraine and formed a department for regulation of housing and utility complex enterprises;

- **September – October 2010** – staffing of the department for regulation of housing and utility complex enterprises with specialists;

- **07.10.2010** – changes in the Law of Ukraine on the National Utility Service Market Regulatory Commission introduced by Law of Ukraine No. 2592-VI on introducing changes into certain legal acts of Ukraine to bring them in compliance with the Constitution of Ukraine (according to these changes the Chairperson and Commissioners of the National Utility Service Market Regulatory Commission are appointed and nominated by the Prime-Minister of Ukraine, and are dismissed from their positions only by the President of Ukraine);

- **October - November** – active work began in the sphere of regulation of the sphere of housing and utility services.
Authorities and status of the regulator in the market of utility services of Ukraine

According to Article 2 of the Law of Ukraine on the National Utility Service Market Regulatory Commission, the National Utility Service Market Regulatory Commission of Ukraine is a state collective body, which carries out state regulation in the sphere of heat supply;

According to Article 6 of the Law of Ukraine on the National Utility Service Market Regulatory Commission, major authorities of the Commission include, in particular:

- licensing of economic activities in the part of centralized water supply and water disposal in volumes that exceed the level set by conditions and rules of maintenance of economic activities (by license terms and conditions); elaboration and approval of license conditions and procedure for their enforcement;

- Licensing of economic activities in the part of generation of heat (except for activity related to generation of heat at CHPs, TPPs, NPPs and cogeneration units or installations that use non-traditional or renewable sources of energy), its transportation through main and local (distribution) heat networks, heat supply in volumes, which exceed the level, which is set by conditions and rules for carrying out economic activity (license terms and conditions); elaboration and approval of licensing conditions and the procedure for control over their enforcement in the sphere of heat supply;

- elaboration of the procedure (methodologies) of formation of tariffs for utility services for subjects of natural monopolies and economic entities in adjacent markets, licensing of whose activity is done by the National Utility Service Market Regulatory Commission of Ukraine;

- setting tariffs for utility services for subjects of natural monopolies and economic entities in adjacent markets, licensing of whose activity is done by the National Utility Service Market Regulatory Commission of Ukraine;
Problematic issues related to regulation of the utility service market of Ukraine

According to the Law of Ukraine on the National Utility Service Market Regulatory Commission “:

**Tariffs for heat** are tariffs for heat (except for tariffs for generation of heat at CHPs, TPPs, NPPs and cogeneration units and units that use non-traditional or renewable energy sources), transportation of heat through main and local (distribution) heat networks, supply of heat *(in other words, the price for commodity product, meanwhile, the tariff for the service for a final consumer is not included)*:

**Tariffs for water supply and water discharge** are tariffs for centralized water supply and water discharge *(in other words, the tariff for the service for a final consumer)*.

The draft Law on making changes and amendments to Law of Ukraine on Potable Water and Potable Water Supply (registration number 4671-d of 4.05.2010) envisions separation of the price for commodity products and the tariff for a final consumer when carrying out activity in the part of centralized water supply and water discharge.
Allocation of duties related to approval of tariffs for heat and water supply
Current development of the regulatory field of the sphere of regulation of the utility service market regulation

According to the Law of Ukraine on the National Utility Service Market Regulatory Commission, the NERC of Ukraine developed:

- drafts of license conditions for carrying out economic activity on generation, transportation, supply of heat and centralized water supply and water discharge;
- drafts of the Procedure for formation of tariffs for generation, transportation, supply of heat, Procedures for setting and revising tariffs for generation, transportation, supply of heat;
- drafts of the Procedure for formation of tariffs for centralized water supply and water discharge, and Procedures for setting and revising tariffs for “centralized water supply and water discharge;
- draft forms of reporting in the sphere of heat supply and centralized water supply and water discharge.

For the purpose of improvement of the normative-legal basis for regulation of tariffs in the sphere of heat supply and centralized water supply and water discharge:

- NERC had two meetings with the USAID delegation (TACIC program) on issues of fine tuning of the draft law on the State regulation of energy markets in Ukraine, in the course of which further areas for cooperation were identified for the project Reform of Urban Heat Supply in the Part of Regulation and Tariff Design in the Field of Heat Supply.

- There were four working meetings at NERC with participation of representatives of the Ukrainian association of water supply and sewage infrastructure, Interdepartmental association for development of heat supply systems Ukrteplokomunenergo, Local Development Institute Ltd., AEC Kievenergo, where comments and proposals to projects developed by NERC were considered.
Thank you for attention