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Are the mechanisms in these Acts sufficient to ensure efficient operation of energy service companies? Do they need any further improvement?

The legal framework for the concept of energy performance contracts (EnPC) in Ukraine is highly important and anticipated in the current economic circumstances, and we are proud to be part of the team drafting the relevant legislation. By adopting so-called ESCO Acts the Ukrainian Parliament has eliminated existing legal barriers for the implementation of energy efficiency measures in public and municipal buildings without spending additional budgetary funds.

The EnPC concept provides that energy efficiency measures in buildings are implemented by the energy service company (ESCO) with its own funds. Payments to ESCO for such energy efficiency services from the budget depend on the level of achieved savings. Hence, ESCO is only entitled to payments for its services in case the actual savings are achieved and, most importantly, in the amount and out of the funds released as a result of such savings.

Of course, there is some work to be done in terms of secondary legislation. However, this process is ordinarily faster. Further regulatory work will require drafting and adopting the underlying regulations governing certain technical issues and more detailed procedures in support of the framework established by the Acts, including: (i) template provisions of EnPC; (ii) certain technical regulations and procedures (e.g., for calculating a baseline for EnPC); (iii) detailed procedures for approving the key terms of EnPC by the relevant government authorities; (iv) template amendments to the regulations of the central and municipal financial authorities regarding budget allocations and adjustments during the existence of an EnPC.

Andriy Nikitin,
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The Resolution of the Cabinet of Ministers of Ukraine *On Special Regulation of Relations in the Energy Sector in the Territory where the Public Authorities Temporarily do not Exercise Their Powers or Exercise only Limited Powers of 7 May 2015, No.263* states that Lugansk Energy Association and DTEK Donetskoblenergo in the uncontrolled zone of the ATO will purchase electricity directly from local generating entities and supply it to local consumers without the participation of state company Energy Market. How would this influence the electricity market in Ukraine?

The commented Resolution formally separated producers and electricity providers located in the uncontrolled areas (including Lugansk Energy Association and DTEK Donetskoblenergo) from the single power system and wholesale electricity market, and discerned a special manager to service the local electricity market – Donbass electric power system. It would seem to mean the loss of a section of participants to the wholesale market, suspension of imports through the aforesaid territories and the necessity to establish a separate control service operations on electricity in the uncontrolled territories. In fact, all except the last has de facto occurred. Since the summer of 2014 the wholesale market has ceased to function normally, the supply of electricity to the uncontrolled territory continued in the absence of any payments for electricity; however, there was a gradual reduction in supply of electricity from the uncontrolled territories (up to zero in January 2015); 90% of electricity imported to Ukraine through the so-called DPR, LPR simply did not reach the destination and, instead, was consumed on the territory of the unrecognized republics.

With the adoption of the Resolution, there will be no longer any need for the CMU to take temporary emergency measures on the wholesale electricity market and there will be no problem with the transfer of funds to the uncontrolled territory.

However, we must note that the CMU has essentially legalized the energy independence of the uncontrolled territories and created the conditions for its consolidation.

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The Verkhovna Rada of Ukraine passed the Act *On Changes to the Act of Ukraine On Advertising of 12 May 2015, No.386-VIII (on advertising in television and radio)* and *On Changes to Certain Legislative Acts of Ukraine on Broadcasting (re-broadcasting) of the Advertising Contained in Programs and Broadcasts of Foreign Broadcasters of 14 May 2015, No.422-VIII.* In what way should broadcasting companies adjust their operation in view of these acts?

The Act No.422-VIII provides a ban on the broadcasting of commercials within shows of foreign TV and radio companies on the territory of Ukraine in case foreign TV and radio companies are not subjected to the jurisdiction of EU countries, or countries that had ratified the *European Convention on Transfrontier Television*. Such broadcasting is allowed only if broadcasting of such commercials is paid to a legal entity of Ukraine despite the way of such broadcasting. The other Act, No.386-VIII, cancels daily TV and radio advertising quotas, and reduces hourly quotas for TV channels from 20% to 15% (from 12 to 9 minutes). Nothing has changed for radio stations — their hourly quota is still 20%.

Both Acts aimed to harmonize Ukrainian legislation with European standards, namely: the EU Directive 2007/65/EU, which stated that only one Member State should have jurisdiction over an audio-visual media service provider and pluralism of information should be a fundamental principle of the European Union. We believe that adoption of the above Acts will be favourable to the Ukrainian telecommunication companies as well as for creating a balance between the financial interests of the service providers, advertisers and general public.