



Ukrainian Gas Market Association

November 23, 2018

Energy Community Secretariat

Director

Mr. Janez Kopač

Dear Mr. Kopač,

Ukrainian Gas Market Association expresses its deep concern about the reforms' inhibition in Ukrainian gas market. The recent decisions of Regulator (NEURC) are discriminatory and inconsistent and lead to distortion of economic competition in the gas market.

Thus, on November 23, 2018 Regulator during its meeting has approved a decision about the prohibition of bringing the volume of natural gas used by consumers to standard conditions by DSO Operators. Mentioned issue is foreseen by the Ukrainian Legislation and also is a well-established as European norm. The Association considers the decision of the NEURC as a politically motivated and such that discriminates some participants in comparison with other participants of the gas market.

The population of Ukraine consumes 11 bcm of gas per year. Around 80% of this gas is consumed in sub-zero temperatures and counted by consumers' gas meters which are located outdoor without bringing to standard conditions. At the same time the gas transferring from a wholesale gas supplier NAK Naftogaz of Ukraine, to the regional suppliers are accounted by Ukrtransgaz (TSO operator) in the standard conditions from January 2016 that is from the implementation of the gas Codes.

In the same way gas that is sold for the industry needs and for the budgetary area is accounted in the standard conditions.

Due to the fact that gas consumed by households is not brought to standard conditions approx. 500 million cubic meters per year are consumed by households but not paid. DSO Operators have no sources for covering these costs since the compensation for these gas volumes is not included to the current distribution rate.

As estimated by the Ukrainian Gas Market Association PSO Suppliers already have accumulated debts to other market participants in the amount approx. 6 billion UAH due to an unlawful restriction to conduct payments of consumed volume of the domestic gas by consumers in standard conditions.

The Association considers that decision of NEURC is discriminatory, unlawful and populist. By such actions the Regulator consciously thwarts reformation of gas market, renders impossible implementation of single and transparent rules for all participants, destroys the gas payments objectivity, and also tries to discriminate and throw down the gas distribution business, artificially leads to the bankruptcy of certain subjects of the natural gas market.

In the opinion of the Associations' experts the NEURC actions contradict with:

- The Law of Ukraine "On Natural Gas Market" (item 31, section 1), which clearly states that natural gas is a commodity product "in a gaseous state under standard conditions (pressure - 760 millimeters of mercury and a temperature of 20 degrees per Celsius)";

- The Code of Gas Distribution Systems, which was approved by the regulation of the Regulator itself from 09.30.2015, #2494. This document states that "volume of natural gas at points of commercial metering should be brought to standard conditions";
- Provisions of the typical agreement for natural gas distribution approved by the NEURC's resolution dated 30.09. 2015 #2498 determine the unit of calculation as " one cubic meter of natural gas distributed and consumed which was brought to the standard conditions specified in the Code of Gas Distribution Systems";
- Rules for natural gas supply approved by the NKREKP on September 30, 2015, #2496 also order to take "one cubic meter (m³) of natural gas brought to the standard conditions specified in the Code of Gas Distribution Systems" as unit of calculation.

As we can see the NEURC 's decree dated November 23, 2018 contradicts with the previous Regulator's decision and can be considered as illegal and insignificant. In addition compensation of volumes which were lost due to non-bringing to standard conditions is not included into the current rate for the gas distribution of the natural gas.

Such kind of regulation disorders the economic competition in the natural gas market and the contradictory of NEURC's actions creates Legal disorder and makes impossible to create a full-fledged gas market in the segment of household consumers. Decision making of such solutions makes impossible to work in the legal boundaries for the whole industry.

In our opinion such Regulator's actions contradict with the logic of building an open and competitive market. The Regulator's actions are controversial, discriminating against gas-distributing companies and remove Ukraine from the approach to high standards of the Energy Community.

Our understanding is that the NEURC's actions are politically motivated and pursue populist goals. They are dictated by the pre-election political situation. Before elections Local Authorities are removing all achievements from the reforms which were executed since 2015 in the gas market and the State Regulator becomes a hostage of the individual politicians' attempts to establish a full control over all segments of the gas market.

In our opinion the major quantity of reforms should be implemented in the field of household gas consumption in Ukraine. This segment should have clear and understandable rules and a consumer should finally receive a real opportunity to choose natural gas supplier by himself.

With best regards,



Denys Senektutov
Chairman