



U.S.-UKRAINE BUSINESS COUNCIL (USUBC)
WASHINGTON, D.C.

"A strong international voice for business in Ukraine"

U.S.-Ukraine Business Council statement on the recent “green tariff” negotiations in Ukraine’s energy sector

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The U.S.-Ukraine Business Council (USUBC) has been following the discussion between Ukraine’s authorities and the international and domestic investors regarding the potential retroactive review of the so-called “green tariffs”, i.e. the feed-in tariffs for electricity produced from renewable energy sources (RES). As a part of USUBC’s promotion of Ukraine as a place to do business, USUBC has actively promoted, in concert with Ukrainian government authorities, Ukraine’s move to attract foreign investment to develop its renewable energy sector.

We expressed its concern last year when several draft laws and amendments to legislation were registered in the Verkhovna Rada by the Committee on Energy and Utilities, which suggested retroactive changes, e.g. cancellation of guarantees for full purchase of all electricity produced by large producers of renewable energy at the feed-in-tariff. These ran counter to the European direction of Ukraine’s reforms and would have resulted in breaching the existing long term PPA contracts.

USUBC stated then, and remains of the same opinion now, that any retroactive change to a country’s legislation which results in worse-than-before business conditions for investors are counter to those investors’ rights under numerous international treaties and absolutely detrimental to the international perception of the country’s investment attractiveness.

The U.S.-Ukraine Business Council is encouraged by the news that, after prolonged negotiations between RES investors and Ukraine’s authorities, the text of the Memorandum of Understanding (MOU) is now being drafted. We hope that the MOU will reflect these aforementioned principles and will be signed by both sides as soon as possible, so that the critical issues which accumulated in the energy sector since last October can be resolved. We also hope that both Ukraine’s authorities and investors are ready to undertake certain concessions in order to restore confidence and operational excellence at the energy market.

We hope that the financial liquidity of State Enterprise “Guaranteed Buyer” is very promptly restored and its liabilities before the RES producers, which by now amount to about 9 bln Hryvnjas, are paid in full. Loans from state-owned banks or IFIs should be utilized, if needed, and UkrEnergo’s transmission tariff, which is a principal source of funding for the “green tariffs,” should be reviewed. We also hope that Ukraine’s authorities are able to review its policy on fair, market-based and transparent pricing of electricity for both industrial and private consumers and to modify its PSO subsidy model.

USUBC would also like to stress that despite the fact that the law already obligates the state to purchase energy from RES producers regardless of its further consumption, RES producers have had their generation curtailed by state orders on occasion since November 2019 and have not been reimbursed due to the lack of an appropriate mechanism. This situation also undermines the international perception of Ukraine as a country with a stable environment for investing. Naturally, balancing electric power generation is an important part of the overall energy policy

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for any country, but arbitrary cut-off orders do not serve this purpose, especially without adequate compensation of business' losses.

We believe that the mechanism for compensating the RES producers for the energy they produce, including the calculations and the procedure, should be finally established and codified in a special document issued by the National Regulator. This document should include the ideas which were discussed in consultations between the authorities and the business and expert community and be grounded in the provisions of the law requiring mandatory purchase of electricity or adequate compensation to the RES producers.

The U.S.-Ukraine Business Council looks forward to the prompt finalization of the negotiations between Ukraine authorities and the RES business community with the signing of a mutually beneficial Memorandum of Understanding which takes into consideration the current energy sector concerns and the longer-term imperative for Ukraine to attract further investments into its energy sector and to strengthen its energy independence.

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The U.S.-Ukraine Business Council (USUBC), www.USUBC.org, was established in October 1995 in Washington, D.C. to advance the U.S. companies' trade and investment interests in Ukraine's significant emerging market, advance Ukraine companies' trade and investment interests in the U.S.A., advocate for measures to improve business environment for bilateral trade and investment, and promote strong, friendly bilateral ties.