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**“Green” Tariff in Ukraine:
Ad Hoc Changes of Regulations
vs
Stable Investment Climate**

Author

Yuliya Ogarenko
ogarenko@apd-ukraine.de

German-Ukrainian Agricultural Policy Dialogue (APD)
Reytarska 8/5 A, 01030 Kyiv
Tel. +38044/ 2356327
info@apd-ukraine.de
www.apd-ukraine.de

Various ad hoc changes of “green” tariff regulations, which occurred from August, 2014 to April, 2015, resulted in unpredictable losses for renewable energy producers, thus, hampering general investment climate and threatening successful development of the renewable energy sector. Any considerable changes of policy incentives, guaranteed by the state, should be performed only after open consultations with key stakeholders. This would enable Ukraine to fully exploit its renewable energy potential and considerably increase the share of renewables in total energy consumption.

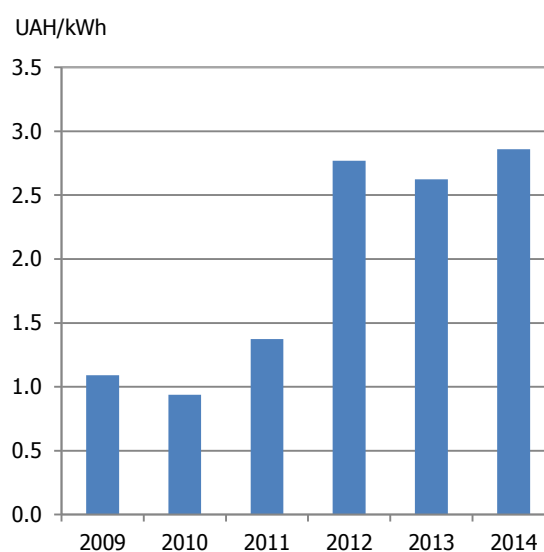
History of regulations and development of the renewable energy market in Ukraine

Government of Ukraine back in 2009 introduced incentives for electricity production from renewable energy sources by approval of the Law #1220-17¹, which amended the Law of Ukraine “On electricity”². According to the article 17-1 of that Law the “green” tariff could not be lower than the fixed minimal level calculated in EUR as of 1.01.2009. The same article states that in case of any changes in legislation, renewable energy producers will be allowed to opt for new conditions voluntarily.

Since then “Green” tariff was set by the National Commission for State Energy and Public Utilities Regulation of Ukraine (NCSEPUR) on a monthly basis, taking into account the official UAH/EUR exchange rate, defined by National Bank of Ukraine.

There are significant differences in the development of the various renewable energy sectors, which could be largely explained by differentiated levels of feed-in tariff coefficients. Figure 1 illustrates an increase of weighted average “green” tariff since 2009 to 2014, which indicates about structural shifts towards highly supported types of renewables (e.g. solar energy).

Figure 1. Weighted average “green” tariff



Source: own calculations based on the data by NCSEPUR

Figure 2 illustrates that the renewable energy market in Ukraine is growing rapidly due to “green” tariff incentive introduced in 2009 to be applied for small hydro, wind, bio and solar energies. In particular, total installed capacity amounted to about 1.2 GW and electricity production to 1.5 bn kWh in 2013. Nevertheless, the share of renewables in total electricity production remained marginal at a level of about 1.2%³, compared to benchmarks reached in advanced EU-countries. For an example, in Germany the share of renewables in final energy consumption reached 9.9% in 2014⁴.

Capacity for electricity production from solar energy has boosted since 2009 and amounted to 748 MW in 2013 due to comparably higher feed-in tariff. Wind energy has also increased by more than four times for the same period. On the contrary, the biomass sector has been developing very slowly because of a number of constraints, including inaccurate definition of “biomass”. Low “green” tariff for bioenergy resulted in long investment payback periods⁵.

¹ <http://zakon4.rada.gov.ua/laws/show/1220-17>

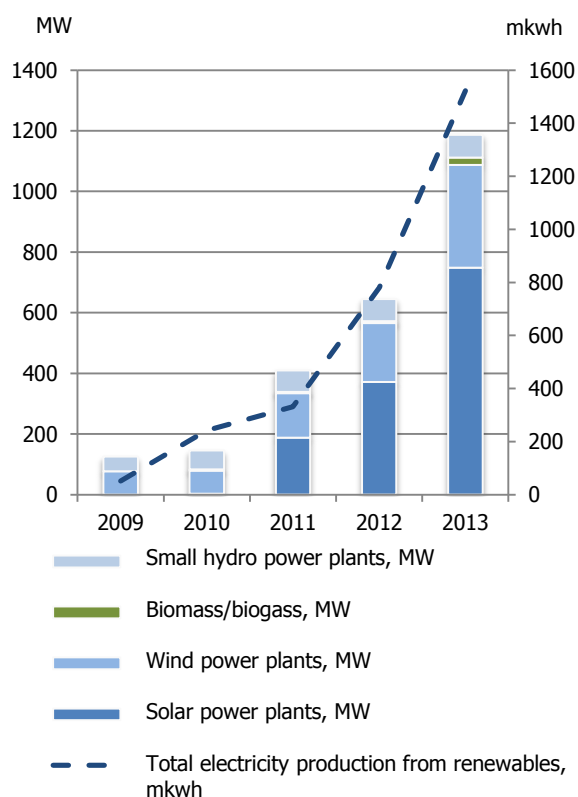
² <http://zakon4.rada.gov.ua/laws/show/575/97-%D0%B2%D1%80/page>

³ <http://forbes.ua/ua/opinions/1391580-vidnovlyuvana-energetika-yak-vizhiti-u-vitchiznyanih-realiyah>

⁴ http://www.erneuerbare-energien.de/EE/Redaktion/DE/Downloads/development-of-renewable-energy-sources-in-germany-2014.pdf?__blob=publicationFile&v=6

⁵ More detailed explanation of key barriers to bioenergy sector is available in AFPR#8/2013, http://www.apd-ukraine.de/images/APD_AFPR_8_2013_eng.pdf.

Figure 2. Installed capacity and electricity production by producers operating under "green" tariff



Source: own presentation based on the data of the National Commission for State Energy and Public Utilities Regulation of Ukraine

According to the NCSEPUR⁶, by the end of 2013 "green" tariffs were approved for 124 economic entities, of which 70 used solar energy, 35 – small-scale hydro power, 13 – wind energy and only 8 biomass respectively biogas⁷. In 2014, 14 additional operators were granted a "green" tariff⁸. Overall, the renewable energy sector attracted USD 2.3 bn of investments and provided more than 15 thsd jobs in Ukraine⁹.

With the expansion of the global market production costs of renewable energy producers have decreased substantially¹⁰. For example, in Germany the costs of electricity produced by solar power plants decreased by 80% over the last 15 years

⁶ <http://www3.nerc.gov.ua/index.php?id=11197>

⁷ 2 operators use both solar and wind energy.

⁸ <http://www.nerc.gov.ua/?id=14905>

⁹ <http://forbes.net.ua/ua/opinions/1391580-vidnovlyuvana-energetika-yak-vizhiti-u-vitchiznyanih-realiyah>

¹⁰ <http://forbes.net.ua/ua/opinions/1391580-vidnovlyuvana-energetika-yak-vizhiti-u-vitchiznyanih-realiyah>

(from EUR 0.5/kWh in 2000 to EUR 0.1/kWh in 2015). At the Ukrainian market production costs of solar power plants decreased less intense: from EUR 0.46/kWh in 2009 to EUR 0.33/kWh in 2013.

Ad-hoc changes of the "green" tariff regulations

On 13th of August, 2014, Cabinet of Ministers approved a procedure for interim emergency measures to overcome the effects of prolonged disruption of electricity market (Resolution #372)¹¹, which occurred among others due to instable gas imports from Russia as well as to the military conflict in the East.

The Resolution defines conditions under which emergency actions could be taken to stabilize the situation. These include: (1) damage of power plants or third party intervention in their operations; (2) decrease of energy production capacities below acceptable level during three days; (3) decrease of fuel stocks at power plants for less than 20 days; (4) insufficient payments for electricity obtained from producers during three consecutive months.

A set of measures was envisioned to address these challenges, which include (1) limitations of prices at the electricity market; (2) introduction of special conditions for purchase and sale of electricity; (3) establishment of mandatory requirements for production, supply and electricity trade; (4) establishment of special conditions for electricity export and import as well other required measures in line with the competencies of the Cabinet of Ministers, Ministry of Energy and Coal Sector and NCSEPUR. Emergency measures could be approved just for one month with the possibility of prolongation.

The Resolution described above did not allow NCSEPUR to review "green" tariffs in line with the UAH/EUR exchange rate for the duration of emergency measures. This was contrary to requirement of the Law "On Electricity" and "Procedure for the establishment, review and termination of the "green" tariff" (Resolution of the NCSEPUR #1421)¹².

¹¹ <http://zakon4.rada.gov.ua/laws/show/372-2014-%D0%BF>

¹² <http://zakon4.rada.gov.ua/laws/show/z1957-12>

On the 31st of January, 2015, NCSEPUR 4 approved Resolution #157¹³, which reduced “green” tariffs for solar power plants by 20% and by 10% for the plants of other renewables.

Moreover, on the 27th of February, four weeks later, “green” tariffs were revised to account for changes in the exchange rate¹⁴ but at the same day a decision was taken to reduce “green” tariffs for solar power plants by 55% and by 50% for other producers of renewable energy¹⁵. NCSEPUR argued that this decision is taken within the framework of emergency measures approved by the Cabinet of Ministers¹⁶.

The decisions of the NCSEPUR described above were taken without sufficient consultations with major investors and business associations, who intervened to the Prime Minister of Ukraine, referring to the lack of stakeholder consultations and specifically to the sudden decision on reduction of “green” tariffs¹⁷. However, their proposals to cancel above mentioned NCSEPUR’s resolutions were not taken into an account. Cabinet of Ministers was extending the regime of emergency state in the energy sector, which implied interventions in “green” tariff setting, every month since September, 2014.

Only in May, 2015, Cabinet of Ministers decided not to extend an emergency state further¹⁸. This means that regulations of the “green” tariff were back to normal. Accordingly, on 30th of April, 2015, NCSEPUR approved the Resolution #1349¹⁹, which cancelled previously approved resolutions and restored the regulation of “green” tariffs in line with current legislation.

It seems questionable whether the correction of “green” tariffs helped to resolve critical problems in the energy sector, which have been targeted by Resolution #372. Payments to the renewable energy sector constituted only 6.6% of the total amount of payments for electricity produced in the

united energy system of Ukraine. Thus, they are to be considered as having only marginal impact on the imbalance of payments occurred in 2014.

However, such an ad-hoc state policy undermines trust of investors in stability of state regulations, laid down in the Law “On electricity” and put under threat compliance of Ukraine with its international obligations under the European “Energy Community Treaty”, e.g. to achieve 11% of renewables in total final energy consumption by 2020. This target is also specified in the National plan of actions in the renewable energy sector by 2020²⁰.

Such a policy combined with unstable macroeconomic situation contributed to the fact that Ukraine in March, 2015 dropped out from the list of top-40 countries attractive for investments in the renewable energy sector²¹.

Moreover, inconsistent state policy resulted in huge losses of state support for business²², particularly, solar power plants lost UAH 402.5 m, wind power providers - UAH 333 m, small hydro plants – UAH 85.6 m, biomass - UAH 38 m²³.

In addition, more than 25 cases of lawsuits against NCSEPUR are currently considered in the courts of Ukraine. Some of the cases have been already won by business and it is likely that the other ones will be won as well, since violation of the existing legislative norms by the NCSEPUR is evident²⁴.

In conclusion, renewable energy market has boosted since 2009 due to introduction of the “green” tariff incentive, whereas the share of renewables in total electricity production amounts to just above 1%. Ukraine has an enormous renewable energy potential and has set an ambitious target of achieving 11% in total energy consumption by 2020.

¹³ <http://www.nerc.gov.ua/?id=13914>

¹⁴ <http://www.nerc.gov.ua/index.php?id=14326>

¹⁵ http://tsn.ua/nauka_it/nkrekp-pozbavlyaye-ukrayinu-shansiv-na-energetichnu-nezalezhnist-412290.html

¹⁶ <http://www.kmu.gov.ua/control/uk/cardnpd?docid=247891938>

¹⁷ <http://www.uabio.org/img/files/news/pdf/ncerkp-letter-signed.pdf>

¹⁸ <http://www.epravda.com.ua/news/2015/05/7/541522/>

¹⁹ <http://www.nerc.gov.ua/?id=15546>

²⁰ Approved by the Cabinet of Ministers on the 1st of October, 2014, <http://zakon2.rada.gov.ua/laws/show/902-2014-%D1%80/page>

²¹ [http://www.ey.com/Publication/vwLUAssets/Renewable_Energy_Country_Attractiveness_Index_43/\\$FILE/RECAI%2043_March%202015.pdf](http://www.ey.com/Publication/vwLUAssets/Renewable_Energy_Country_Attractiveness_Index_43/$FILE/RECAI%2043_March%202015.pdf)

²² Although national currency depreciated substantially, the amount of “green” tariff was not increased despite procedures of the Law on Electricity, which require doing so.

²³ <http://forbes.ua/ua/opinions/1391580-vidnovlyuvana-energetika-yak-vizhiti-u-vitchiznyanih-realiyah>

²⁴ <http://forbes.ua/ua/opinions/1391580-vidnovlyuvana-energetika-yak-vizhiti-u-vitchiznyanih-realiyah>

However, ad hoc changes of “green” tariff regulations resulted in huge losses for business and threatened compliance of Ukraine with the European Energy Community obligations. The Government will also incur losses due to lawsuits and will have to put considerable efforts to restore the trust of investors in renewable energy market of Ukraine.

German records confirm the need for stability and transparency in any regulations as well as in “green” tariffs, targeting for the promotion of environmental friendly energy production. Prior to any significant changes in the policy framework for alternative energies new regulations should be discussed with all relevant stakeholders. Economic and environmental related consequence should be thoroughly evaluated, preceding policy decision making.