

**Attn: Mr.S.Neykov, Director of
the Energy Community
Secretariat
18.06.2012 №_____**

Dear Mr. Neykov!

The Ukrainian side has considered the agenda of the 25th PHLG meeting and would like to inform about the following.

The issues to be considered during the meeting are of current importance both for the development of the Energy Community Contracting Parties and achievement of the Energy Community Treaty goals.

As to the draft Regional energy strategy – the Ukrainian side would like to confirm its agreement with the actions and activities under this document on the whole. At the same time we note that the way to achieve the Objective 1 (ii) of the Strategy (namely, implementing the common capacity allocation mechanism (coordinated auctions) in the 8th Region and between Ukraine and Republic of Moldova borders as well as between their borders and EU, establish the electricity auctions in several countries of the Region and integration of markets on the price basis in line with the milestones defined in the «Regional action plan for market integration in South-East Europe» with a view to join the single European Price Coupling mechanism no later than 2015) is possible after synchronizing the Ukrainian energy system with ENTSO-E. We also would like to note that the time limits for Ukraine in adoption of the legislative rules and balancing commitments for the market participants will be considered after having the Law of Ukraine «On principle of the functioning of the electricity market of Ukraine» approved by the government (Objective 1 (iii) of the Strategy).

We also inform that achievement of the Objective 2 (iii) of the Strategy related to adoption of prices that reflect fully the cost of supply for all tariff customers by the end of 2012 will be possible for Ukraine not earlier than 2016. Besides, the implementation of harmonized licensing regimes in line with EU licensing procedures under the geographical frameworks of the Title IV of the Treaty establishing the Energy Community will be possible after the changing the Ukrainian electricity market model only. The draft Regional energy strategy is under consideration of the Ukrainian authorities now.

If the Ukrainian view is taken into account, Ukraine will agree the proposal on approval of the Regional energy strategy. It would be done with the necessity to pass relevant Ukrainian internal procedures.

Besides, we would like to put your attention that adoption of a decision related to integration of the electricity markets of Ukraine and Republic of Moldova within the scope of separate sub-group of the Region could be considered after the relevant technical study had been completed. That is because the Ukrainian electricity system synchronized neither with Moldova nor with ENTSO-E as a whole.

As to the Treaty acquis extension, the Ukrainian side notes that this process should facilitate the effective development and strengthening of the Region. At the same time the deadlines for the implementation of new legislation by Ukraine should be determined with the necessity to pass relevant Ukrainian internal procedures.

In addition we would like to note that Ukraine is going to refrain from comment both the Procedural Act of the Permanent High Level Group laying down the rules governing the adoption of Guidelines and Network Codes in the Energy Community and voting on incorporation of Regulation (EC) № 838/2010 in the Energy Community since Ukraine has not joined the Decision of the Ministerial Council of the Energy Community on the implementation of the Third EU Energy Package for internal market.

Given the above mentioned, we would like to ask to include the following formulations in the draft Conclusions of the meeting:

1. As regards to inclusion the Directive 2009/28/EC in acquis of the Treaty:

Ukraine needs more time for careful study and additional discussions to make a final decision related to inclusion the Directive 2009/28/EC in acquis of the Treaty. It also depends on necessity to pass relevant Ukrainian internal procedures.

2. As regards to inclusion the Directive 2009/119/EC in acquis of the Treaty:

Ukraine supports the inclusion the Directive 2009/119/EC in acquis of the Treaty. At the same time the terms of implementation of the Directive should be determined with the necessity to pass relevant Ukrainian internal procedures.

3. As regards to inclusion the Directive 2008/92/EC and the Regulation (EC) 1099/2008 in acquis of the Treaty:

Ukraine supports the inclusion the Directive 2008/92/EC and Regulation (EC) 1099/2008 in acquis of the Treaty. At the same time the terms of implementation of these acquis should be determined with the necessity to pass relevant Ukrainian internal procedures.

4. As regards to inclusion the Directive 2005/33/EC in acquis of the Treaty:

Ukrainian side intends to resume discussions on inclusion the Directive 2005/33/EC in acquis of the Treaty after detailed elaboration and discussions with Ukrainian governmental bodies.

5. As regards to Regional action plan on wholesale market opening:

Ukrainian side underlines that the Study on Ukraine and Moldova energy systems synchronizing conditions is still in progress. It could be finished not earlier than

2015. Thus Ukraine will be able to resume the approval of the Regional action plan on wholesale market opening after this Study had been completed.

Best regards,
Deputy Minister

V. Makukha