

**Assessment of draft amendments to NEURC  
Resolution of 9 November 2023 No 2099  
regarding cancelling price caps in the DAM  
and IDM**

**by the Energy Community Secretariat**

**April, 2024**

# PURPOSE STATEMENT

**Assessment of draft amendments to Resolution of the National Energy and Utilities Regulatory Commission on marginal prices in the day-ahead market, intraday market and balancing market (No 2099 of 9 November 2023) as to cancelling price caps in the DAM and IDM.**

## TABLE OF CONTENT

<b>Introduction</b>	<b>1</b>
<b>Background</b>	<b>1</b>
<b>Security of supply</b>	<b>3</b>
<b>Impact on the market</b>	<b>4</b>
<b>Compliance assessment</b>	<b>5</b>
<b>Conclusions and recommendations</b>	<b>6</b>

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## Ukraine Energy Market Observatory

Assessment 6/24

### ***Assessment of draft amendments to NEURC Resolution of 9 November 2023 No 2099 regarding cancelling price caps in the DAM and IDM***

## Introduction

The present assessment follows the request<sup>1</sup> of the National Energy and Utilities Regulatory Commission (hereinafter, NEURC) to the Secretariat to provide an opinion on the draft decision<sup>2</sup> of NEURC to amend its Resolution No 2099 of 9 November 2023 (“Resolution No 2099”), aiming to cancel marginal prices (so-called “price caps”) on the electricity day-ahead market (“DAM”) and intraday market (“IDM”). In its letter to the Secretariat and explanation to the draft decision, NEURC states that the draft amendments target minimization of the regulatory impact on the electricity market to ensure its competitive operation and liberalization.

## Background

a) Resolution No 2099<sup>3</sup>

NEURC Resolution 2099 sets price caps for the DAM, IDM and the balancing market (“BM”). The detailed background as to introduction, establishment and evolution of price caps in the electricity market of Ukraine is presented in the Secretariat’s Ukraine Energy Market Observatory<sup>4</sup> Assessment note 13/2023 of 14 July 2023<sup>5</sup>.

Most recent revisions of the price caps for the DAM and the IDM by NEURC were taken on 9 November 2023, and for the BM on 3 April 2024. Both decisions, amending the Resolution 2099, were evaluated by the Secretariat<sup>6,7</sup> as positive steps forward in terms of alignment with the Energy Community acquis, even under present challenges in Ukraine’s electricity system. In particular,

- for the DAM and IDM in the context of further electricity market liberalization, incentives for imports and, hence, increase of security of supply during winter,
- for BM in the context of incentivizing competitive bidding in the BM and imbalance optimization.

Currently applicable price caps/floors for DAM, IDM and BM are summarized in Figure 1. Figure 2 summarizes the evolution of maximum price caps in the DAM and IDM electricity market segments during 2023<sup>8</sup>.

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<sup>1</sup> NEURC letter of 11.04.2024

<sup>2</sup> <https://www.nerc.gov.ua/storage/app/uploads/public/661/6ad/b79/6616adb795abd479247367.pdf>

<sup>3</sup> <https://zakon.rada.gov.ua/rada/show/v2099874-23/ed20240410#Text>

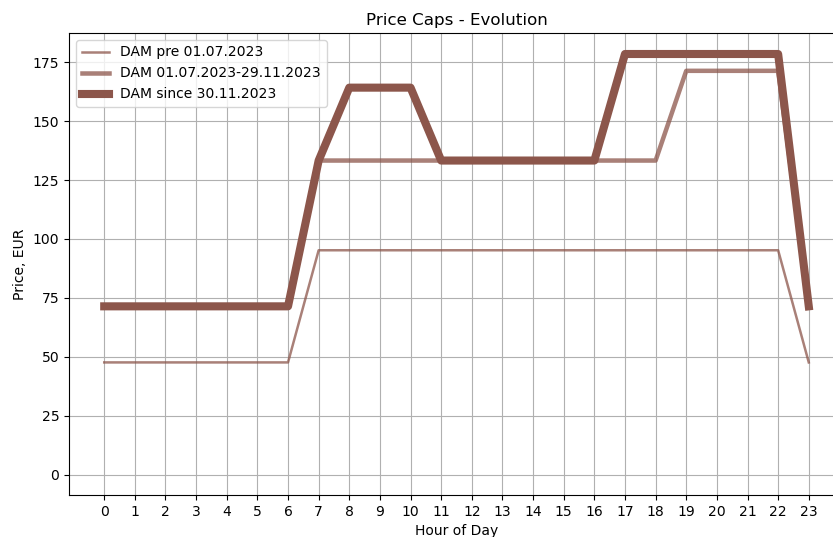
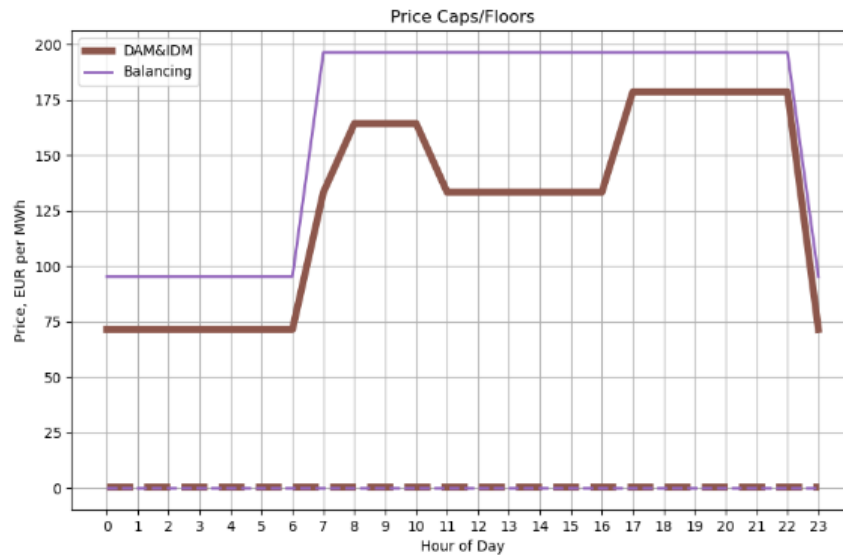
<sup>4</sup> <https://www.energy-community.org/Ukraine/observatory.html>

<sup>5</sup> <https://www.energy-community.org/dam/jcr:78db10df-0b4a-4c58-8bab-10cfebbef44/Note13.pdf>

<sup>6</sup> <https://www.energy-community.org/news/Energy-Community-News/2023/11/21a0.html>

<sup>7</sup> For the BM, the Secretariat provided an opinion to the draft decision per NEURC request.

<sup>8</sup> Partly in 2023, price caps were set by NEURC Resolutions No.332 of 25.02.2022 and No.1126 of 27.06.2023.



Figures 1 and 2

b) Draft amendments to the Resolution 2099

Amendments to Resolution 2099 propose that parts 1(1) and 1(2), setting numerical values for DAM and IDM price caps and floors (see Figure 1) no longer apply after 29 April 2024. This means that DAM & IDM price caps set by Resolution 2099 will cease to exist by 29 April 2024.

In addition to Resolution 2099, DAM and IDM Market Rules (“Market Rules”)<sup>9</sup>, approved by NEURC Resolution No 308 of 14 March 2018, in Annex 4 set general requirements to price bids formation. These requirements set limitations for DAM and IDM price bids with a floor of 10 UAH/MWh (0.24 EUR/MWh) and cap of 50 000 UAH/MWh (~1200 EUR/MWh). At the same time, part III “Trading”, 3.1.6 stipulates that “prices in the DAM and IDM bids are defined within marginal prices (temporary minimal/maximum price limits) in DAM and IDM, in case these apply”.

<sup>9</sup> <https://zakon.rada.gov.ua/laws/show/v0308874-18/ed20240223#Text>

With the cancellation of applicable minimal/maximum price limits for the DAM and IDM set in the Resolution 2099, solely the provisions of Annex 4 of the Market Rules will apply, i.e. allowing for DAM/IDM price bids in a range between ~0.24 EUR/MWh and ~1200 EUR/MWh.

The minimum/maximum price limits set by Resolution 2099 for the BM will remain unchanged and continue to apply with a maximum value of UAH 8250/MWh (~EUR195/MWh) from 7:00 to 23:00, and 4000UAH/MWh (~EUR95/MWh) from 00:00 to 7:00 and 23:00-24:00.

## Security of supply

Following Ukraine’s synchronization with the electricity network of Continental Europe, imports from the EU to Ukraine continue to contribute to the functioning of the power system and security of supply.

Further relaxing of price limitations in the Ukrainian market, including the possible future removal of DAM and IDM price caps, will facilitate imports from the EU by:

- accommodating EU prices dynamics throughout the year,
- allowing for price spreads between Ukrainian and neighbouring markets as an incentive for market participants to commercially import electricity into Ukraine.

As seen from data in Figure 3 below, after relaxing the DAM price caps limitations in Ukraine during 2023 and the introduction of price cap hourly differentiation, Ukraine’s DAM market prices:

- Demonstrated higher correlation with prices of adjacent EU markets,
- Better reflected the daily system load profile,
- Reached absolute levels that are comparable with those of the EU.

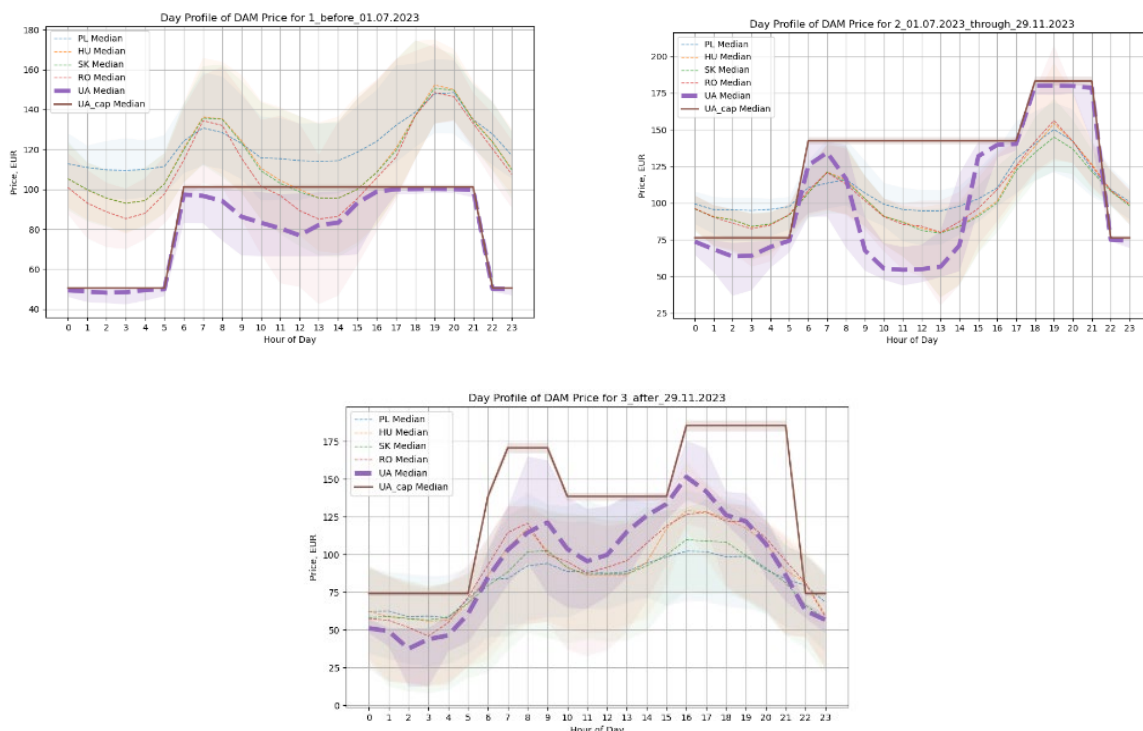


Figure 3

These effects from relaxing price caps are especially important as allocation of cross-border capacity between Ukraine and the adjacent EU Member States still is limited to a daily time frame. It is important that pricing conditions in the DAM and IDM market segments are capable to accommodate short term prices of the adjacent EU markets. This will support the TSO in maintaining system balance and minimize the need for emergency supply which comes at a price higher than the DAM price in the EU markets.

## Impact on the market

### a) Supply side

Figure 4 below shows prices of the Ukrainian DAM in the first three months of 2024. DAM prices are significantly lower than applicable maximum price caps in place. This means that factors other than price caps are key in influencing bidding behavior on supply side. Among those factors are the overall physical system balance, seasonal RES output, or commercial strategies of market players selling more in DAM in order to secure reliable payments missing in other market segments, such as BM which has a longer final settlement period. Thus, price caps no longer serve their initial purpose – wholesale price regulation – and currently are less relevant for actual DAM price formation.

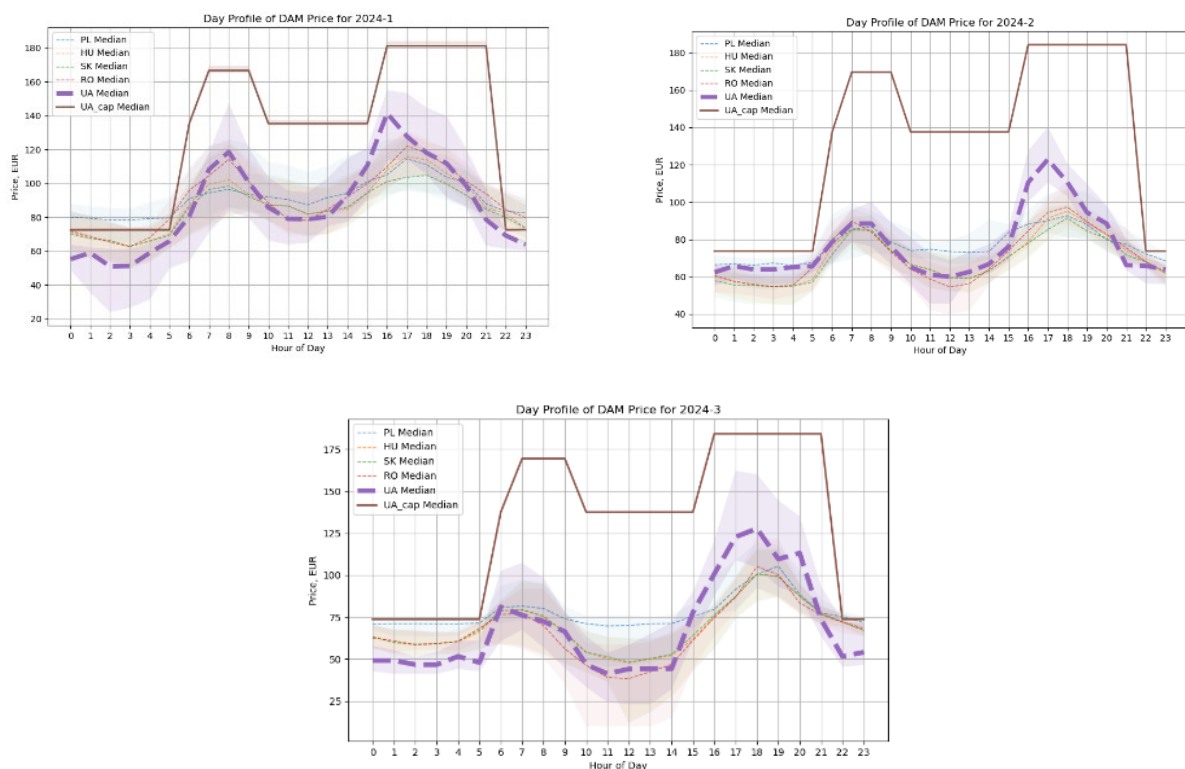


Figure 4

For times of capacity/energy scarcity, the removal of DAM and IDM price caps allows for participation of generation from diverse sources. That is of most importance after the recent massive attacks on energy infrastructure in Ukraine. A revenue flow for electricity producers active in the market will serve as an instrument to rebuild their assets, where possible. For those producers who perform public service obligation (PSO) for households, it will support producers' financial liquidity affected by the PSO mechanism. However, it will also increase compensation payable by them to the universal suppliers under the PSO obligations.

BM price caps will still remain in place with a maximum of ~EUR195/MWh during the day and peak hours as set by Resolution 2099. While this cap may act as an indirect constraint on the DAM and IDM price bids from market participants, it could also create unintended incentives for speculative behavior in the balancing market. This is particularly true when imbalances come at a price lower than DAM and IDM prices. NEURC should monitor the balancing market performance to identify and address such speculative behavior. Price regulation on this segment, against the actual market sequence, may limit TSO's ability to activate the necessary volumes of balancing services. The TSO should be able to act in each hour of the day based on technical criteria and state of the system, without any limitations stemming from price caps, be it in the DAM, IDM or the BM.

#### b) Demand side

It is difficult to predict how exactly the average wholesale electricity prices in Ukraine will develop following the relaxing of price caps and in combination with other key factors (impact on capacity damages due to hostilities, seasonality and weather, further military action, technical condition of producers and repair campaign of major players, fuel stock and its type etc.). In any event, the absence of price caps should incentivize demand to place bids less speculative and in a straight-forward market logic. This would serve as a natural cap of the market price reflecting the present supply-demand patterns.

For household consumers, it should be recalled, that prices are regulated through a public service obligation mechanism.<sup>10</sup> Therefore, unless prices for those consumers change as well, there will be no immediate effect on them. In any event, it is critical that the Government ensures that vulnerable and energy-poor consumers are shielded from unaffordable electricity price increases.

## Compliance assessment

Ukraine has committed to the process of further integration of its electricity market with the EU internal market following the adoption of the Electricity Integration Package ("EIP") in the Energy Community in December 2022. The deadline for transposition of this package was 31 December 2023. The transposition and implementation of the EIP requires that the Ukrainian electricity market operates under the same principles as applied in the EU. To ensure a level playing field, free price formation should not be affected by caps much lower than those applicable in the EU (which are not meant to limit price formation but constitute technical bidding limits).

The adapted and adopted Regulation (EU) 2019/943 on the internal market for electricity ("the Electricity Regulation") in Article 10(1) states that there shall be neither a maximum nor a minimum limit to the wholesale electricity price formation in all timeframes (including balancing energy and imbalance prices) without prejudice to the application of technical price limits which may be applied in the DAM, IDM and BM. Article 10(2) of the Electricity Regulation requires that any such limits in the DAM and IDM shall be sufficiently high so as not to unnecessarily restrict trade, shall be harmonized for the internal market and shall take into account the maximum value of lost load. Furthermore, the Electricity Regulation requires the implementation of a '[...] *transparent mechanism to adjust automatically the technical bidding limits in due time in the event that the set limits are expected to be reached. The adjusted higher limits shall remain applicable until further increases under that mechanism are required*'.

In addition, Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management ("the CACM Regulation") defines the application of technical bidding limits

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<sup>10</sup> <https://zakon.rada.gov.ua/laws/show/1-2023-%D0%BF#Text>

in the DAM and IDM by means of two terms, conditions and methodologies ("TCMs"), one for the DAM (Article 41) and one for the IDM (Article 54). The CACM Regulation requires the NEMOs of Contracting Parties to apply, in cooperation with the relevant TSOs, the maximum and minimum prices according to these TCMs which are developed by all NEMOs on EU level and approved by the Agency for the Cooperation of Energy Regulators ("ACER"). For the DAM, Article 41 requires this application upon integration into the single day-ahead coupling ("SDAC") while for the IDM no specific implementation date is set beyond the general deadline for implementation of the Electricity Integration Package (expired in the end of 2023). The current levels<sup>11</sup> of the harmonized minimum and maximum price for the SDAC and the single intraday coupling ("SIDC") were approved by ACER<sup>12</sup> in January 2023, together with an adjustment mechanism automatically triggered in case the limits are expected to be reached to ensure free price formation and prevent the technical bidding limits to function as actual price caps. A separate ACER decision<sup>13</sup> under Article 30 of the Regulation (EU) 2017/2195 establishing a guideline on electricity balancing ("the EB GL") defines technical price limits for both positive and negative balancing energy,<sup>14</sup> with a transitional period with lower limits for the first four years of the European balancing platforms' operations.<sup>15</sup> In its decision, ACER finds that balancing price limits are not (and shall not be) lower than the harmonized maximum and minimum prices defined for the DAM and the IDM. The EB GL adapted for the Energy Community provide that TSOs shall apply this harmonized methodology within one year after entry into force of the EB GL, i.e. by 15 December 2023.

The transposition of the EIP will require amendments to all relevant NEURC regulations, to ensure compliance with the principle of free price formation and the maximum/minimum DAM, IDM and BM (as the first step) and with the integration into the SDAC the application of harmonized maximum and minimum clearing prices approved by the ACER for the DAM (as a second step). The EB GL also needs to be implemented to ensure the TSO's participation in the cross-border balancing process, namely the European balancing platforms for the exchange of balancing energy.

## Conclusions and recommendations

The Secretariat evaluates the amendments proposed by NEURC as a positive step. Consequently, the Secretariat recommends that NEURC adopts this approach towards DAM and IDM and subsequently also cancels the BM price cap applicable by Resolution 2099. The Secretariat also recommends that NEURC assesses the timing of price cap cancellation in view of the present critical situation when a significant portion of generation capacity in Ukraine is damaged or destroyed. Considering the assessment above, the Secretariat recommends the following:

- 1) A comprehensive transposition and implementation of the EIP. Ukraine should have applied the pan-EU methodologies on technical price limits in the DAM, IDM and BM, under the EIP CACM Regulation and EB GL by either adherence to Single Day Ahead Coupling (SDAC) or by end of 2023.
- 2) In the absence of a comprehensive EIP transposition and implementation in Ukraine to date, the proposed amendments to Resolution 2099 to cancel price caps in the DAM and IDM and putting into effect the maximum price bid limit of ~EUR 1200 EUR/MWh, are a

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<sup>11</sup> SDAC: -500/4000 EUR/MWh; SIDC: -9999/+9999 EUR/MWh  
[ACER Decision 01-2023 on HMMCP SDAC - Annex 1.pdf \(europa.eu\)](#)  
[ACER Decision 02-2023 on HMMCP SIDC - Annex 1.pdf \(europa.eu\)](#)

<sup>12</sup> ACER Decisions 01-2023 and 02-2023

<sup>13</sup> [https://eepublicdownloads.entsoe.eu/clean-documents/nc-tasks/220225\\_EB%20Regulation\\_Art.30\\_Amendment\\_ACER%20Decision\\_Annex%201%20\(1\).pdf](https://eepublicdownloads.entsoe.eu/clean-documents/nc-tasks/220225_EB%20Regulation_Art.30_Amendment_ACER%20Decision_Annex%201%20(1).pdf)

<sup>14</sup> at the level of 99 999€/MWh and -99 999€/MWh

<sup>15</sup> 15000 €/MWh and - 15000 €/MWh during up to 48 months of the operation of the European balancing platforms with the participation of all the TSO.



significant step towards ensuring compliance with the relevant requirements of the Electricity Regulation and CACM Regulation.

- 3) The remaining maximum price cap in the BM of ~EUR 195/MWh does not meet the relevant requirements of the Electricity Regulation and EB GL. The BM price cap is likely to impact bidding behavior of market participants and prices in the DAM and IDM, as well as potential speculative behavior in the balancing market. It is recommended eventually to also cancel this price cap within the planned amendments of the Resolution 2099 to reflect the sequence of markets, meaning that any limits on markets closer to real-time should be in line with the EU EB GL technical bidding limits.
- 4) Price regulation should not be used as a tool aimed at preventing market manipulation. The key mechanism to address market abuse and manipulation is Regulation (EU) 1227/2011 on wholesale energy market integrity and transparency (“the REMIT Regulation”),<sup>16</sup> as transposed and implemented in Ukrainian legislation. The REMIT toolbox should be used swiftly and to the fullest extent by NEURC, including monitoring of market participants behaviour, launch of investigations and application of sanctions in case of market abuse. NEURC and TSO should monitor the activity in the balancing market and identify potential speculative behaviour,
- 5) Currently, Ukraine faces critical situation as a large portion of its generation capacity is damaged or destroyed due to Russian military attacks. Cancelling price caps in supply constrained markets could result in undue price volatility with potential negative impacts on electricity consumers and other market participants. While restoration of the damaged generation infrastructure could be time and resource consuming, increase of cross-border transmission capacities with the neighbouring countries could contribute to meet Ukrainian electricity needs in a relatively shorter time frame. Thus the timing of price cap cancellation should be assessed in view of near term options to increase electricity supply capacities that would alleviate price pressures in the Ukrainian electricity market.