



**Assessment of the amendments to the Gas
Transportation Code and the Rules for the supply of
natural gas (regarding the procedure for switching the
supplier by non-household consumers)**

by the Energy Community Secretariat

December, 2023

PURPOSE STATEMENT

Assessment of the Resolution No 1454 of 8 August 2023 adopted by the National Energy and Utilities Regulatory Commission on the approval of changes to some resolutions of the NEURC, amending the Gas Transportation Code and the Rules for the Supply of Natural Gas related to the procedure for switching the supplier by non-household consumers.

TABLE OF CONTENT

Introduction	1
Background	1
New supplier switching procedure for non-household customers	1
Impact on the markets and stakeholders in Ukraine	3
Compliance assessment	3
Conclusions and recommendations	3

Energy Community Secretariat

Am Hof 4, 1010 Vienna, Austria

Tel: + 431 535 2222

Fax: + 431 535 2222 11

Web: www.energy-community.org

Twitter: https://twitter.com/ener_community

LinkedIn: <https://www.linkedin.com/company/energy-community/>



Ukraine Energy Market Observatory

Assessment 19/23

Assessment of the amendments to the Gas Transportation Code and the Rules for the supply of natural gas (regarding the procedure for switching the supplier by non-household consumers)

Introduction

On 8 August 2023, the National Energy and Utilities Regulatory Commission (NEURC) adopted amendments to the Gas Transportation Code¹ and the Rules for the Supply of Natural Gas (Gas Supply Rules)². Before its adoption, NEURC submitted the draft to the Secretariat for review. The Secretariat assessed³ the proposed draft amendments and provided some proposals for improvement. The present assessment provides a summary of the adopted amendments by Resolution No 1454, and their compliance with the Energy Community acquis.

Background

The basic principles for natural gas supplier switching in Ukraine are stipulated by Article 14 of the Gas Market Law of Ukraine⁴. More detailed rules and procedures for switching the natural gas supplier are set out by the Gas Supply Rules. Prior to their recent amendments, they envisaged different switching regimes for non-household and household customers.

To change its supplier, a non-household customer had to conclude a natural gas supply contract with a new supplier and terminate the natural gas supply contract with the existing supplier (or suspend it for a certain settlement period). In addition, non-household customers had to have no outstanding debt for natural gas delivered by the current supplier, which was to be confirmed by a written certificate from the supplier, an act of reconciliation of mutual accounts drawn up with him, or by a written permission from the current supplier for the customer to switch to a new supplier.

In comparison, the supplier switching procedure for household customers is simpler. It requires only the submission of an application to sign a natural gas supply contract with a new supplier. A household customer is also obliged to fully and finally settle its accounts with the previous supplier. However, this is not a precondition for supplier switching.

New supplier switching procedure for non-household customers

The adopted amendments to the Gas Supply Rules abolished the requirement for non-household customers to provide evidence for the absence of outstanding debts towards the

¹ NEURC Resolution dated 30.09.2015 No. 2493;

² NEURC Resolution dated 30.09.2015 No. 2496;

³ Letter of the Secretariat of June 2023;

⁴ <https://zakon.rada.gov.ua/rada/show/329-19/ed20230903#Text>

existing supplier as a precondition to switch to a new supplier. The main amendments adopted by Resolution No 1454 can be summarized as follows:

Old supplier switching procedure for non-household customer	New supplier switching procedure for non-household customer
<p>Non-household customer who intends to change the supplier:</p> <ul style="list-style-type: none"> ✓ Shall conclude a gas supply contract with a new supplier; ✓ Shall terminate the gas supply contract with the existing supplier (or suspend it in a certain period); <ul style="list-style-type: none"> ✓ May have no outstanding debts for gas delivered by the existing supplier, which is confirmed by a written certificate from the existing supplier, an act of reconciliation of mutual accounts drawn up with him, or by a written permission to switch from the existing supplier. 	<p>Non-household customer who intends to change the supplier:</p> <ul style="list-style-type: none"> ✓ Shall contact the new supplier with a written offer to conclude a gas supply contract; ✓ Shall inform the existing supplier of the intention to change the supplier (if this is required by the terms of the existing gas supply contract). ✓ The gas supply contract with the existing supplier is automatically suspended⁵ in the part of natural gas supply from the date of commencement of gas supply by the new supplier, as evidenced on the gas transmission system operator's (TSO) information platform. It is up to non-household customer and former supplier to terminate the contract as a whole according to the conditions of the contract. ✓ Does not required to provide confirmations of the absence of overdue debt for the delivered natural gas to the current supplier. <p>The existence of a dispute between an existing supplier and a non-household customer may not delay the conclusion and execution of a gas supply contract with a new supplier.</p> <p>The termination or suspension of the gas supply contract does not release the non-household customer from the obligation to fulfill financial obligations under this contract.</p> <p>From the day of the confirmation (registration) of the customer in the registry of the new supplier on the information platform of the TSO, the existing supplier of gas has no right to initiate the termination (limit) of natural gas supply.</p> <p>If the supply of gas to the customer was already stopped or curtailed due to outstanding debts before the start of the switching procedure, the registration of the customer with a new supplier on the information platform of the TSO can take place only after the settlement of the entire debt to the existing supplier.</p>

⁵ Automatically suspended means partial suspension of contract conditions in terms of gas supply with existing supplier resulted from of registration of non-household customer in the Register of consumers of the new supplier on the TSO information platform and does not require any additional actions from the customer. In case of automatic suspension of the natural gas supply contract in accordance with the switching procedure, its renewal is possible by concluding a corresponding agreement between the supplier and the consumer.

Impact on the markets and stakeholders in Ukraine

While the existence of customer debts towards suppliers represents a huge challenge in the Ukrainian gas markets, the NEURC Resolution No 1454 correctly removes the obligation of customers who want to change their supplier to settle their debts prior to supplier switching. This facilitates supplier switching of non-household customers in practice, while evidently not abolishing the payment obligation to the existing supplier.

In addition, a non-household customer is no longer obliged to inform the existing supplier about the intention to change supplier (unless it is required by the contract), which removes another obstacle to supplier switching in practice. Based on the provisions introduced to the Gas Transportation Code by Resolution No 1454, all information exchange in the process of supplier switching (e.g. information on the initiation of switching, the date for the start of supply by the new supplier, the exclusion of the customer from the register of the current supplier) is done automatically through the information platform operated by the Gas TSO.

Resolution No 1454 hence removed obstacles and facilitated market opening for the benefit of Ukrainian consumers and competition on the market.

Compliance assessment

The adopted amendments to procedure of supplier switching procedure by non-household customers brings the regulatory framework on gas market in Ukraine closer to the basic principles of eligibility and customer empowerment as stipulated by Directive 2009/73/EC⁶ (the Gas Directive). In compliance with Article 3 of the Gas Directive, Resolution No 1454 simplifies the switching procedure for non-household customers and increases the efficiency of the switching process. The Gas Supply Rules were also aligned with Article 1 (e) of Annex I to Directive 2009/73 by extending the customer protection provisions for household customers to non-household customers, by ensuring that customers are not being charged for or otherwise prevented from changing their supplier. The adopted amendments took into account the proposal of the Secretariat.

Conclusions and recommendations

NEURC Resolution No 1454 is compliant with the Energy Community *acquis* in force, namely with the Gas Directive by enabling eligible non-household customers to easily switch to a new supplier.

The Secretariat recommends NEURC to monitor the effectiveness of the procedure, e.g. in the form of publishing supplier switching rates for non-household customers, as provided by the Article 41 of the Gas Directive.

⁶ https://www.energy-community.org/dam/jcr:004b3ca7-fa52-4633-875e-8ac1b2cea021/Directive_2009_73_GAS.pdf