

## **Proposals for Amendments to the Law of Ukraine "On Combined Production of Heat and Electricity (Cogeneration) and Use of Waste Energy Potential"**

### **Rationale:**

The purpose of introducing data verification, unscheduled audits and mechanisms for suspension/revocation of the certificate is to ensure a reliable and honest qualification regime for cogeneration plants. This is achieved through the complete digitalization of the procedure in the ICS (paperless), systematic monthly monitoring of electricity and heat production and fuel consumption, their electronic verification through interdepartmental integrations, as well as the use of risk-based audits only on clearly defined grounds. A proportionate response of the state is envisaged — from a temporary suspension with a deadline for elimination of violations to annulment in case of gross or irremediable violations — in compliance with the applicant's procedural guarantees (the right to be heard, motivated electronic acts, administrative and judicial appeals). This approach ensures the relevance and transparency of the public register, increases market and investor confidence, promotes energy security and balance sheet planning, and is consistent with European practices in the field of high-efficiency cogeneration.

### **Offers:**

The definition of terms should be supplemented with new paragraphs of the following content:

electronic certificate of qualification of a cogeneration plant (certificate) — an electronic document confirming the status of a cogeneration plant as qualified (highly efficient) within a specified period of validity, generated in the information and communication system, signed by a qualified electronic signature of an authorized official;

information and communication qualification system (ICS) — a state information system that provides an electronic service for registration and qualification of cogeneration plants, maintenance of the relevant register, submission, storage and verification of monitoring data, as well as data exchange with other state and industry information resources;

monitoring of operational indicators — submission by the owner (user) of the cogeneration plant through ICS of periodic (monthly) data on the production of

electric and thermal energy, fuel consumption and calculation of primary energy savings;

verification (verification) of data — a set of measures carried out by the authorized body to establish the completeness, accuracy and reliability of the submitted data, including through electronic exchange with other registers/systems and comparison with commercial accounting data;

unscheduled audit — an unscheduled audit of an institution and/or data carried out by an authorized body in cases specified by this Law, in order to confirm compliance with the criteria of high-efficiency cogeneration and reliability of the information provided;

suspension of the certificate — temporary suspension of the certificate by the decision of the authorized body until the elimination of violations specified in such decision;

Certificate cancellation is the termination of the certificate by the decision of the authorized body in case of gross or irremediable violations, or loss of compliance with the criteria of highly efficient cogeneration by the installation.

Article 11 shall be supplemented with a part of the following content:

"The qualification of cogeneration plants shall be provided in electronic form exclusively through the information and communication system determined by the Cabinet of Ministers of Ukraine, with the formation and issuance of an electronic certificate and the entry of information into the electronic register of qualified cogeneration plants."

Supplement with new articles of the following content:

Article 112. Monitoring the performance of qualified CHP plants

1. The owner (user) of a qualified cogeneration plant is obliged to submit monitoring data for the previous calendar month (quarter) through ICS on a monthly basis, by the 10th day of the month following the reporting month:

volumes of electricity produced and supplied;

volumes of heat energy produced and emitted;

volumes of consumed fuel (by type) in physical terms;

Calculation of primary energy savings according to the approved methodology.

2. Monitoring data is submitted in electronic form with the imposition of a qualified electronic signature of the responsible person and is stored in the ICS as part of the electronic file.

3. Systematic non-submission of monitoring data (two or more consecutive reporting periods) or submission of data with significant inconsistencies shall be grounds for initiation of verification and unscheduled audit, as well as for suspension of the certificate in accordance with Article 11<sup>4</sup> of this Law.

#### Article 11<sup>2</sup>. Data verification and unscheduled audits

1. The authorized central executive body that implements the state policy in the field of energy efficiency (hereinafter referred to as the authorized body) verifies the application data and monitoring data by:

electronic verification of the completeness and format of the information submitted to the ICS;

electronic interaction with state and industry registers/systems (in particular, the USR, information systems of the State Tax Service, registers of the National Energy and Utilities Regulatory Commission, data of the TSO/DSO, Market Operator, commercial heat metering systems, EcoSystem, USESSB, etc.) — using the state system of electronic interaction;

analytical reconciliations and risk-based rules (detection of anomalies, mutually contradictory data, significant discrepancies).

2. The grounds for appointing an unscheduled audit are:

failure to enter monitoring data within the established timeframe;

identification of significant (affecting the result of qualification) discrepancies between the applicant's data and the control data of other systems;

substantiated complaints or reports of possible violations;

changes in the composition or operating modes of the unit that are not reflected in the ICS.

3. An unscheduled audit is carried out remotely. The authorized body has the right to request additional documents, data and explanations; The owner

(user) is obliged to ensure the provision of the requested information in electronic form.

4. The audit results are drawn up in an electronic act with conclusions on the compliance/non-compliance of the criteria for high-efficiency cogeneration and the reliability of the submitted data, which is placed in the ICS and sent to the applicant.

#### Article 114. Suspension and cancellation of the certificate of qualification

1. In case of establishing violations that can be eliminated, the authorized body shall make a decision to suspend the validity of the certificate, indicating the detected violations, the method and term for their elimination, which may not be less than 30 calendar days. For the period of shutdown, the installation is considered to have temporarily lost the status of qualified.

2. In case of failure to eliminate violations within the established period or establishment of facts of gross/irremediable violations (including submission of knowingly false data, falsification of measurements, loss of compliance by the installation with the threshold criteria for saving primary energy), the authorized body makes a decision to cancel the certificate.

3. The decision to suspend/revoke the certificate is drawn up as an electronic administrative act signed by the QES of the authorized official, and is brought to the attention of the owner (user) through the ICS on the day of its adoption. Information about suspension/cancellation is entered into the register.

4. In case of revocation of the certificate, a second application for the qualification of this installation is allowed not earlier than six months from the date of cancellation, unless another period is determined by the decision on cancellation due to particularly serious violations.

5. Suspension or cancellation of the certificate does not release the owner (user) from the obligation to submit monitoring data until the violations are eliminated or the operation of the installation is terminated.

#### Article 115. Guarantees of procedures and appeals of decisions

1. Before making a decision on the suspension/cancellation of the certificate, the authorized body ensures the right to be heard: sends a notice of

intention to make a decision through the ICS with a list of grounds and a period (at least 10 working days) for submitting explanations and/or additional evidence.

2. Decisions of the authorized body may be appealed administratively to the central executive body that ensures the formation of state policy in the field of energy efficiency within 30 calendar days from the date of receipt of the decision, as well as in court. An administrative complaint can be submitted in electronic form through the ICS.

3. Filing a complaint does not suspend the execution of the decision, unless otherwise determined by law or the body considering the complaint.

#### Article 116. Data exchange for qualification and monitoring purposes

1. The authorized body and the ICS administrator have the right to receive, free of charge, within the limits of their powers, the information necessary for data verification and monitoring from the central executive authorities, the National Energy and Utilities Regulatory Commission, the transmission system operator, distribution system operators, the Market Operator, revenue and duties authorities and other entities that own the relevant state (sectoral) registers or information systems, in electronic form using the state electronic interaction system.

2. Data transfer and processing are carried out in compliance with the legislation on personal data protection, electronic trust services and public electronic registers.

## II. Final and transitional provisions

1. The Cabinet of Ministers of Ukraine shall, within three months from the date of entry into force of this Law, bring its regulations into compliance with this Law.

2. Before the launch of the ICS, allow the submission of applications and materials in the manner determined by the Cabinet of Ministers of Ukraine, with the obligatory transfer of all electronic files to the ICS after the start of its commercial operation.