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## “GREEN” (“FEED-IN”) TARIFF IN UKRAINE

### *Introduction*

The “green” tariff for electricity (also known in many other jurisdictions as the “feed-in” tariff) was introduced in Ukraine relatively recently – only in 2008. Since that time it has evolved substantially and now appears to be quite mature in terms of the legislative base. Moreover, the Parliament of Ukraine continues to be make certain legislative improvements. For instance, in June 2011 some state guarantees of application of the “green” tariff were enhanced. The latest amendment was adopted by the Parliament of Ukraine on 18 November 2011 and signed by the President of Ukraine on 8 December 2011. This underscores the Ukrainian government’s attention to this mechanism and its willingness to make it as much attractive as possible.

On the other hand, the Ukrainian government is clear in its intention that not only environment should benefit from the application of the “green” tariff, but also the Ukrainian economy. Therefore, the state will support only those technologies, which, after the “green” tariff ceases to apply, will be able to compete in economic terms with the technologies working on traditional fuels. Following this logic, the President of Ukraine vetoed a law adopted by the Parliament of Ukraine on 6 October 2011, which envisaged the extension of the “green” tariff to electricity generated from biogas. According to the President of Ukraine, the prime cost of electricity generated from biogas is now the same and is expected to become higher than the prime cost of electricity generated from traditional fuels, while, in case of electricity generated from other alternative energy sources (*e.g.*, wind energy), the prime cost of such electricity constantly reduces and is expected to become eventually lower than the prime cost of electricity generated from traditional fuels.

### *General Framework*

The “green” tariff in Ukraine is regulated by the Law of Ukraine “*On the Electrical Energy Industry*”, dated 16 October 1997, and will remain effective until 1 January 2030.

Companies engaged in the generation of electricity from alternative sources of energy may be eligible for the application of the “green” tariff. The following sources of energy are regarded as alternative ones for the purposes of application of the “green” tariff:

- Solar energy;
- Wind energy;
- Hydroenergy (only generated by small (*i.e.*, with the generation capacity not exceeding 10 MW) hydropower plants); and
- Energy of biomass.

### *Rates of the “Green” Tariff*

The “green” tariff is determined by the National Commission for Regulation of Electroenergetics of Ukraine (the “NCRE”) individually for each company, which generates electricity from alternative sources of energy.

The rate of the “green” tariff for each electricity-generating company depends on the kind of alternative sources of energy it uses.

The “green” tariff rates are regularly reviewed by the NCRE, but may not be lower than the fixed minimum “green” tariff rates determined by the NCRE for each kind of alternative sources of energy. In order to address concerns of the potential depreciation of the Ukrainian currency (hryvnia), such fixed minimum “green” tariff rates were linked to Euro. Below is a table showing fixed minimum “green” tariff rates depending on the kind of alternative source of energy:

<i>Type of Alternative Sources of Energy</i>		<i>Fixed Minimum “Green” Tariff Rate, per 1 KW (less VAT), EUR</i>
Wind energy	For electricity-generating units with generation capacity below 600 KW (inclusive)	0.065
	For electricity-generating units with generation capacity between 600 KW (exclusive) and 2,000 KW (inclusive)	0.075
	For electricity-generating units with generation capacity above 2,000 KW	0.113
Solar energy	For ground-mounted units	0.465
	For rooftop units with generation capacity above 100 KW	0.446
	For rooftop units with generation capacity below 100 KW (inclusive) and for units installed on front of buildings (irrespective of the generation capacity)	0.427
Energy of biomass		0.124
Energy generated by small hydropower plants		0.078

### ***State Guarantees***

Companies generating electricity from alternative sources of energy are entitled to opt for one of the following regimes of “green” tariff application:

- in effect on the date of commissioning of the relevant electricity-generating unit; or
- in effect at any time thereafter.

The operator of the wholesale electricity market of Ukraine is obliged (and this is guaranteed by the state) to purchase electricity generated by the alternative sources of energy at the “green” tariff and to pay in time and in cash for such electricity, unless such electricity is sold directly to the customers or energy-supplying companies at an agreed price.

### ***Additional Eligibility Requirements***

In order to motivate companies to generate electricity from alternative sources of energy sooner rather than later, a provision was introduced that, in relation to the electricity generated by electricity-generating units commissioned or substantially<sup>1</sup> modernized in 2014, 2019 and 2024, the rate of the “green” tariff will decrease by 10%, 20% and 30%, respectively, from the current rates.

Moreover, companies will be able to benefit from the “green” tariff, provided that, in relation to electricity-generating units construction of which commenced after 1 January 2012, the aggregate amount of raw materials, equipment, works and services of the Ukrainian origin in the cost of construction of the relevant unit constituted at least:

- in relation to electricity-generating units commissioned prior to 1 January 2013 – 15%;
- in relation to electricity-generating units commissioned between 1 January 2013 and 1 January 2014 – 30%; and
- in relation to electricity-generating units commissioned after 1 January 2014 – 50%.

### ***Tax Preferences***

#### ***Corporate Income Tax Exemption***

For a period until 1 January 2020, profit of companies received from the simultaneous generation with the use of biofuels of (i) electricity and heat energy and/or (ii) of heat energy is exempt from corporate income tax.

Furthermore, 80% of profit of a company received from the sale of raw materials, equipment and components, which were produced by such company and which will be used in the generation of energy from alternative sources of energy, are also exempt from corporate income tax. The so-saved funds must be directed by the company for the increase of its production volumes. The company may enjoy this exemption for the period of five years.

#### ***VAT/Custom Duties Exemption***

Import of the following items to Ukraine is exempt from the Ukrainian custom duties and VAT, provided that (i) such items will be used by a tax payer for its own production and (ii) identical goods are not produced in Ukraine:

- equipment and materials, which will be used for the generation of energy from alternative sources of energy; and
- raw materials, equipment and components, which will be used in the generation of energy from alternative sources of energy.

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<sup>1</sup> *I.e.*, with modernization cost of more than 50% of the initial value of such unit.