

1ST ENERGY DERIVATIVES
COORDINATION GROUP

UKRAINE CASE STUDY

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Outline

- Timeline of legislation for energy markets and financial markets/instruments law in Ukraine
- How we did it in Ukraine in the legislative process
- Financial Regulator & Energy Regulator: Rivals or Partners?



Heating



Gas Market



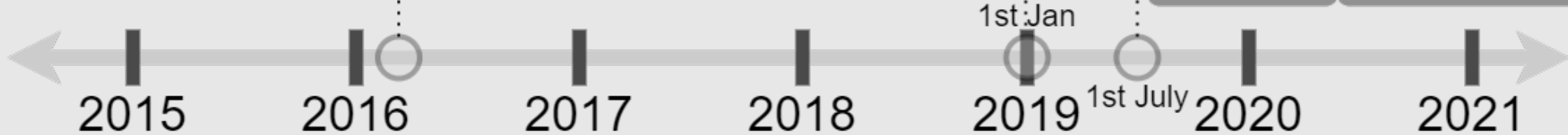
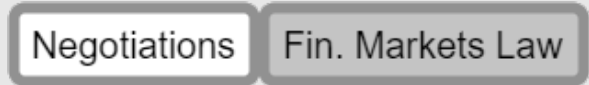
Wholesale Market



Water Supply








Retail Market



Wholesale Gas Market of Ukraine



Producers

-  NPPs
-  TPPs, CHPPs
-  HPPs, HPSPPs
-  RES
-  Guaranteed Buyer

Bilateral contracts

Day-ahead market

Market operator

Intraday market

Balancing market

TSO

Ancillary Services Market

Consumer

 Supplier

 Final customer

 DSO

 Trader








Two Sides of a Coin

- Why energy derivatives are beneficial in general and in Ukraine in particular?
 - We need to understand the price for the future. Electricity spot price is hourly, but fluctuates as market is rather immature. Gas spot price is “borrowed” from European jurisdictions;
 - There are no price risk hedging instruments available
 - Advanced settlement mechanism need to be introduced to increase liquidity and decrease transactional costs of market participants
- But
 - Electricity & Gas can hardly be equal in regulatory treatment with other tradable commodities
 - Markets operate under many restrictions: price caps in electricity, PSOs in both gas & electricity, the latter offering price to end-users far below total cost of service, non paying consumers, debts.
 - Though nicknamed “derivatives law”, the draft FinMarkets Law 2284 clearly intended to regulate commodities trading, incl. electricity & gas

National Bank of Ukraine



NEURC



Draft Law "2284"

National Securities and Stock Market Commission



Problems & Complications

- Overlapping regulation resulting from FinMarkets draft law “2284”
 - Licensing of Market Operators
 - Market Rules
 - Market Oversight
 - Penalties
- MIFID & REMIT not Implemented. No evolutionary development like in Europe.
- No business process for cooperation/information exchange in place
- Antimonopoly Committee, 3rd regulator, has to “join the game”

Solution 1: a set of “carve outs”

Sphere of the Financial Markets Law excludes

- TSOs Gas & Electricity
- DAM Operator Electricity
- Electricity & Gas & Heating markets functioning
- Reference to specialized laws

Financial Instruments exclude

- Deliverable options, futures, swaps, forwards and other derivatives with commodity being underlying asset to which a party is gas or electricity TSO or concluded for physical balancing of supply and demand, incl. ancillary services
- Commodity based forward contracts with physical delivery
- Derivative contracts concluded at OTF or organized market, the subject of which is sale & purchase of electricity & gas, transmission, distribution, supply
- **Wholesale Energy Products**

• Wholesale Energy Products defined as

- Sale & purchase agreements for electricity and gas with delivery in Ukraine
- Derivative contracts for electricity & gas produced, supplied or traded in Ukraine or EnC
- Contracts for transportation of electricity & gas & their derivatives
- Contracts for electricity or gas supply and distribution to large end-users, threshold established by NEURC

Solution 2: Legislatively Mandated Cooperation & Information Exchange

Energy Regulator

Financial Regulator

Anti-Monopoly
Committee

MOU
Information Exchange
Data Protection



Solution 3: Strengthening/Clarification of NEURC Authority

- Changes to Criminal Code
 - REMIT based definition of manipulation in the energy market. Definition, penalties, size of damage, severe damage, illegal disclosure of insider information
- Changes to Commercial Code
 - Legal basis, organization of sale & purchase and settlements in the electricity and gas markets, to be carried out according to sectoral laws
- Changes to Electricity Market Law
 - Special features of implementing clearing at electricity and gas markets to be decided by the Energy Regulator

Thank you & stay healthy!