



**NATIONAL COMMISSION IMPLEMENTING THE STATE  
ENERGY REGULATION  
AND MUNICIPAL SERVICES  
(NERC)**

**DECREE**

\_\_\_\_\_ Kiev № \_\_\_\_\_

On making a preliminary decision  
on certification of the operator of  
the electricity transmission system

In accordance with paragraph 7 of part one of Article 17 of the Law of Ukraine “On the National Commission for State Regulation in the Spheres of Energy and Public Utilities”, paragraph 3 of Part Three of Article 6, Articles 31, 32, 33 and 34 of the Law of Ukraine “On the Electricity Market” , paragraph 2 of Article 1 of the Law of Ukraine "On Ratification of the Protocol on the Accession of Ukraine to the Treaty Establishing the Energy Community" National Commission for State Regulation in the Fields of Energy and Utilities,

**DECIDES:**

1. Adopt a preliminary decision on the certification of private NGO STOCK TH SOCIETIES A "National Power Company" Ukrenergo " (EDRPOU code 00100227 ) under study prior to the decision on certification attached.

2. oblige private company "National Power Company" Ukrenergo " until 20 October 2019 to carry out actions to amend the Statute of private company" National Power Company "Ukrenergo" to the exclusion of provisions that do not comply with the Law of Ukraine "On electricity market ” and other regulations in the field of energy in terms of compliance with the requirements for separation and independence of the transmission system operator , in particular clauses 2.2.15, 2.2.18 - 2.2.20, 2.2.24 - 2.2.27 of the Charter .

3 . To establish that the final decision on certification of PRIVATE JOINT STOCK COMPANY "NATIONAL ENERGY COMPANY" UKRENERGO "is

possible only after fulfillment of the necessary measures provided in justification before the previous decision on certification .

4 . To bring to the attention of the Secretariat of the Energy Community the preliminary decision on certification of PRIVATE JOINT STOCK COMPANY "NATIONAL ENERGY COMPANY" UKRENERGO "together with all information concerning the decision.

NERCEP Chairman O. Kryvenko

APPROVED  
Resolution of the National  
Commission for the State  
Regulation of Energy and Utilities  
№ \_\_\_\_\_

**RATIONALE**  
**TO THE PREVIOUS DECISION ON THE CERTIFICATION OF THE**  
**PRIVATE JOINT STOCK COMPANY "NATIONAL ENERGY COMPANY"**  
**UKRENERGO "**

C tatt eyu 9 10 of Directive 2009/72 / EC of the European Parliament and of the Council of 13 July 2009 roku on common rules for the internal market in electricity and repealing Directive 2003/54 / EC (hereinafter - the Directive) and Article 3 of Regulation 714/2009 of the European Parliament and the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity (hereinafter referred to as the Regulation) laid down requirements for the assignment by the operator of the transmission system of the entity that has received the certification decision in accordance with the requirements of the Directive and the Regulation. The implementation of these requirements of the Directive and the Regulation in national legislation is envisaged by Ukraine's international obligations under the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other number 1678-VII 16 September 2014 roku ) Treaty establishing the Energy Community , which was signed on 24 September 2010 in Skopje (Macedonia) and ratified by the Law of Ukraine "on ratyfyka uw Protocol on Ukraine's accession to the Treaty establishing the Energy Community " of 15 December 2010 roku № 2787 VI- , and the Law of Ukraine" On Electricity Market "(hereinafter - the Law) of 13 April 2017 roku number 2019- VIII .

In accordance with part one of Article 32 of the Law, the operator of the transmission system (hereinafter referred to as the CAP) of Ukraine must be a legal entity that is not part of the vertically integrated economic entity and which carries out economic activity independent of production, distribution, supply electricity and trader activity.

Paragraphs 2 and 3 of Article 32 of the Law stipulate that the CAP does not have the right to carry out activities of generation, distribution, supply of electricity and trading activities. The CAP can only be the owner of the transmission system.

Part 4 of Article 32 of the Law also states that in order to ensure the independence of the CAP, any natural or legal person is not entitled at the same time:

1) directly or indirectly exercise sole or joint control over at least one economic entity (including a foreign entity) engaged in the production (production) and / or supply of electricity (natural gas) and directly or indirectly exercise a single or joint control of the CAP (including owning the transmission system) or exercising any right to the CAP (including any rights over the transmission system itself);

2) directly or indirectly exercise sole or joint control over the CAP (including being the owner of the transmission system) and directly or indirectly exercise sole or joint control over at least one economic entity (including a foreign one) pursuing production activities ( production) and / or the supply of electricity (natural gas), or exercise any right over at least one economic entity (including a foreign one)

engaged in the production (production) and / or the supply of electricity (natural gas);

3) appoint at least one officer of PCB and directly or indirectly exercise sole or joint control over at least one entity (including foreign), which carries out activities of production and / or electricity supply or use of any right on at least one entity engaged in the production and / or supply of electricity;

4) be an official of the CAP and at least one economic entity (including a foreign entity) engaged in the production and / or supply of electricity.

In addition, part five of Article 32 of the Law stipulates that if the person or persons referred to in part four of Article 32 of the Law are state bodies, then two different state bodies controlling the CAP or the transmission system, on the one hand, and the control of an entity engaged in the production (production) and / or supply of electricity (natural gas), on the other hand, should be considered as different persons.

In addition, part of the sixth article 32 of the Law provides that for the purposes of the fourth paragraph of Article 32 the term "right" means:

1) the right to vote in the bodies of a legal person, if the formation of such a body is provided by the statute or other constituent document of such legal person;

2) the right to appoint officials of bodies of a legal entity;

3) owning 50 percent or more of the corporate rights of a legal entity.

Article 31 of the Law provides that the CAP should be the entity that received the license for transmission of electricity.

However, in accordance with the second paragraph of Article 31 of the Law of Ukraine "On the Electricity Market" (hereinafter - the Law), a license for carrying out activities on the transmission of electricity is issued after the final decision on certification of the transmission system operator in accordance with this Law.

Pursuant to the second part of Article 34 of the Law, the procedure for certification, which contains the requirements for notifications, documents, data and information provided by the applicant, the term of their submission, the amount and procedure for payment for certification, the validity of the decision. on certification, approved by the Regulator.

The procedure for certification of the operator of the electric power transmission system was approved by the NERCEP Resolution No. 1016 of August 10, 2017 (hereinafter - the Certification Procedure ). According to the Procedure of certification control (NKREKP) decides on certification (or refusal of certification) CAP based on the results verify that the requirements of the request feeder separation and independence of the CAP provided by law and the criteria set out in paragraph 3.1 of the Procedure for certification .

Under the provisions of paragraph 16 of Section XVII "Final and Transitional Provisions" Law of PJSC "NPC" Ukrenergo "NKREKP submitted to request a certification of transmission system operator ( letter dated 14 August 2019 , the number 01/30692 ) with papers , given ymi and information yeyu required procedure certification . According to the Certification Procedure, within four months from the receipt of the request for certification, the NERCEP shall make a preliminary decision on certification or refusal of certification. The final decision shall be taken

by the Regulator within two months from the date of receipt of the opinion of the Energy Community Secretariat on the preliminary certification decision.

In accordance with part three of Article 31 of the Law, the organizational and legal form of the transmission system operator shall be a joint stock company. In this case, the state owns 100 percent of the shares (shares) in the authorized capital of the transmission system operator, which are not subject to privatization or alienation otherwise.

According to the provisions of Article 15 of the Law of Ukraine "On Licensing of Business Activities", if the licensee terminates as a result of the transformation and his successor intends to carry out the type of economic activity licensed by the licensee, such successor is entitled to ensure the completion of organizational measures related to to obtain a new license for its implementation, to carry out within a period not exceeding three months, this type of economic activity on the basis of a previously issued license. After this period, the successor is obliged to obtain a new license, and the previously issued license is subject to revocation.

Since 29 July 2019 roku D erzhavne company "N ational Energy Company " Ukrenergo "was turned on to a private company" National Power Company "Ukrenergo" , the m with a abezpechennya sustainable functioning electricity market PJSC "NPC" Ukrenergo "must get a solution on the certification of the transmission system operator and the license for the right to conduct business activities on the transmission of electricity until October 30, 2019.

NKREKP after reviewing submitted PJSC "NPC" Ukrenergo "request and the documents, data and information in compliance with the law and order of certification on the separation and independence of the model for ownership (hereinafter - Model OU) Set silt so f :

1 . Compliance of Ukrenergo PJSC with the requirements for separation of electricity transmission activities from production (production) and supply of electricity (natural gas) .

Since 1998, implementation of the function and centralized control (operational-technological) management of the unified energy system of Ukraine and organization of parallel work with the energy systems of other countries have been carried out by the State Enterprise "National Energy Company" Ukrenergo ", which was created in accordance with the Law of Ukraine " On Electricity " and the order of the Ministry of energy of Ukraine on 15 April 1998, looking number 54 on the basis of state-owned enterprises " National Electricity dispatch center Ukraine " ( enterprise code 00100227) and " erzhavna Electric Company " Ukrelektroperedacha " ( enterprise code 22946373).

For the exercise of the transmission of electricity GP "NPC" Ukrenergo " October 28 1 9 98 roku had received a license to conduct activities of electric power transmission backbone and interstate power networks in Ukraine (Resolution NERC from 28 October 1998 roku number 1366, which was reissued decrees th NERC 17 July 2 014, the number 1012 ) . There were no other licenses for conducting the economic activity in the electricity market of Ukrenergo SE during the whole period of its existence. In accordance with the Laws of Ukraine "On Electricity" (which

expired on June 11, 2017, and certain provisions on July 1, 2019) and “On the Electricity Market” (came into force on June 11, 2017) economic activity in the production, transmission, distribution of electricity energy, supply of electricity to the consumer, trader activity, the exercise of the functions of a market operator and a guaranteed buyer shall be conducted in the electricity market, subject to obtaining the relevant license issued by the Regulator. Pursuant to Article 6 of the Law of Ukraine "On the Electricity Market", the activities of the NERCEP shall include licensing of economic activities in the field of electricity and control of the license conditions for conducting economic activities by licensees. According to the provisions of the Law of Ukraine "On Licensing of Business Activities", the licensing authority maintains a licensing register. According to the license registry NKREKP license to conduct activities of production, distribution, delivery, resale (trader activity) of electricity GP "NPC" Ukrenergo "and CJSC" NEC "Ukrenergo" as his successor not received and, therefore, does not c their activities.

From the moment of creation and up to February 4, 2019, SE "NEC" UKRENERGO "belonged to the sphere of management of the vertically integrated economic entity - Ministry of Energy and Coal Industry of Ukraine, which also includes, in particular, legal entities carrying out activities on generation, distribution and supply of electricity (Fig. 1).



Fig. 1 List of entities for the transfer, production, supply and distribution of electric energy included under the control Minenergouglya (as 0 3 February 2019 roku )

Pursuant to the provisions of Section XVII , Final and Transitional Provisions of the Law, a state-owned enterprise that carries out the centralized control (operational and technological) management of the UES of Ukraine (SE "NEC" Ukrenergo ") must be corporatized .

In accordance with part three of Article 32 of the Law, the organizational and legal form of the transmission system operator shall be a joint stock company.

Pursuant to the Law of 22 November 2017 Cabinet th Ministers of Ukraine adopted a decision (order number 829-p) to transform the State Enterprise "National Power Company" Ukrenergo "in a private joint stock company, 100 percent s shares were owned by the state in connection with what the Ministry of energy and Mines started converting SE "NPC" Ukrenergo "in private joint stock company by taking orders from December 5, 2017 № 728" on establishment of Commission for reorganization (transformation) SE "NEC UE "and on December 29, 2017" On approval of the Action Plan of reorganization (transformation) SE "NPC" Ukrenergo ".

Cabinet of Ministers of Ukraine dated 14 November 2018 looking number 1001-was the entire property of the State Enterprise " National Power Company " Ukrenergo "has been transferred from the Ministry of Energy and Mines to the Ministry of Finance of Ukraine .

By the order of the Ministry of Finance of Ukraine dated January 04, 2019 No. 3, a commission on transfer issues was formed, as a result of which the act of acceptance and transfer of the whole property complex of SE "NEK" UKRENERGO "from the sphere of management of the Ministry of Energy and Coal Industry of Ukraine to the sphere of management of the Ministry of Finance was drawn up. Of Ukraine on February 04, 2019 .

On July 29, 2019, in accordance with the order of the Ministry of Finance of Ukraine dated July 29, 2019 No. 321, the state registration of the termination of a legal entity - state enterprise "National Energy Company" Ukrenergo "was carried out by its transformation into a PRIVATE JOINT STOCK COMPANY" NATIONAL ENERGY ENERGY ENERGY .

According to the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations, as well as information provided by the letter of the Ministry of Finance of August 19, 2019, 22 entities are within the sphere of management of the Ministry of Finance of Ukraine, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine. through the Minister of Finance and who are not engaged in the production, distribution, supply of electricity (natural gas) and resale activities (trading activities) ) of electricity / natural gas. In addition, the Ministry of Finance of Ukraine manages the corporate rights of the state in the authorized capital and owns shares of three banks (Fig. 2).



Fig. 2 companies and institutions belonging to the Ministry of Finance of Ukraine (as of 04 February 2019 roku )

According to documents provided and in accordance with the Licensing th register ohm NKREKP , the Unified State Register of legal entities, individual entrepreneurs and community groups , found that :

JSC «NEC« Ukrenergo » does not carry out economic activities for the production (production) , and / or distribution, supply of electricity (natural gas) ;

100% of Ukrenergo PJSC shares are owned by the state;

the main activity of JSC "NPC" Ukrenergo " is Mr. eredacha electricity ( for vehicles NACE 35.12) , which is legally separate from any other production activities (extraction), and / or distribution, electricity supply (natural gas);

Thus, the NERCEC established compliance with the Applicant for certification of PJSC "NEC" Ukrenergo "requirements for separation of electricity transmission activities from production (production) and supply of electricity (natural gas).

## 2. Compliance of JSC NEC Ukrenergo with the requirements regarding the independence of the transmission system operator

The State of Ukraine and under the control of individual state bodies are economic entities engaged in the activities of production (production) and / or supply of electricity (natural gas), as well as transmission of electricity (transportation of natural gas).

Information on the list of economic entities engaged in the activity of production (production) and / or supply of electricity (natural gas) with a state share in the authorized capital exceeding 50 percent and the entities of their management is given in Annex 1 to this Substantiation. .

According to the information given in Annex 1 to this Substantiation, such public authorities as the Cabinet of Ministers of Ukraine, the Ministry of Energy and Environment, the Ministry of Agrarian Policy and Food of Ukraine, the Ministry of Infrastructure of Ukraine and the State Property Fund of Ukraine business entities



engaged in the activities of generation (production) and / or supply of electricity (natural gas).

The Ministry of Finance of Ukraine and other ministries are separate state bodies that are not subordinate to each other, and their fields of activity are separated by the Cabinet of Ministers of Ukraine and enshrined in the relevant ministry regulations.

In accordance with the regulation on the Ministry of Finance of Ukraine, approved by the Cabinet of Ministers of Ukraine on August 20, 2014 № 375 (hereinafter - the Regulation on the Ministry of Finance), the Ministry of Finance is appointed, who is appointed to the post by the Prime Minister of Ukraine and dismissed from the post of the Verkhovna Rada Of Ukraine.

The Constitution of Ukraine is based on the principle of separation of powers (competences) between the legislative body (the Verkhovna Rada of Ukraine), the executive body - (the Cabinet of Ministers of Ukraine) and the President of Ukraine.

According to the requirements of the Law of Ukraine “On the Cabinet of Ministers of Ukraine”, the activity of the Cabinet of Ministers of Ukraine is based on the principles of the rule of law, legality, separation of state power, continuity, collegiality, joint and several liability, openness and transparency. The Cabinet of Ministers of Ukraine is a collegial body. The Cabinet of Ministers of Ukraine, in accordance with the Constitution of Ukraine and this Law, approves the Regulation of the Cabinet of Ministers of Ukraine, which defines the procedure of holding meetings of the Cabinet of Ministers of Ukraine, preparation and adoption of decisions, other procedural issues of its activity, and also determines the procedure for developing, implementing and monitoring the implementation of the Cabinet of Ministers' program documents. Of Ukraine.

In accordance with the requirements of paragraphs 1 - 2 of paragraph 21 of the Regulation of the Cabinet of Ministers of Ukraine, approved by the resolution of the Cabinet of Ministers of Ukraine of July 18, 2007 No. 950 (hereinafter - the Regulation), decisions of the Cabinet of Ministers shall be made by a majority vote of the Cabinet of Ministers. In the case of an even distribution of votes, the vote of the Prime Minister is decisive.

Thus, none of the officials of the Government of Ukraine is empowered to make decisions individually on matters within the competence of the Cabinet of Ministers of Ukraine, which is an additional guarantee of limiting their influence on the central executive bodies, in particular with regard to the management of the corporate rights of the state in the authorized capital companies, the sole shareholder of which is the state, and creates the conditions for preventing conflicts between private interests and public duties of officials and officials.

Article 21 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” provides that the Government (by making a collegial decision) may repeal acts of ministries and other central executive bodies in whole or in part.

At the same time, the legislative acts do not entitle only the Prime Minister of Ukraine without the joint decision of the Government to cancel the acts issued by the Ministry of Finance.

In addition, in accordance with paragraph 103 of the Regulation, the Cabinet of Ministers of Ukraine abolishes acts of central executive bodies in whole or in part in

case of their inconsistency with the Constitution and laws of Ukraine, acts of the President of Ukraine, resolutions of the Verkhovna Rada and acts of the Cabinet of Ministers by adopting relevant decrees. The draft of such an order is prepared by the Ministry of Justice by decision of the Prime Minister.

Thus, the relevant authority does not affect the independence of the central executive bodies, which perform the functions of managing state-owned objects, from the Government of Ukraine, but in view of clearly defined cases in which the Cabinet of Ministers of Ukraine has the right to repeal acts of such bodies, is an additional guarantee of their decision-making within the limits of defined powers and in accordance with the Constitution, laws of Ukraine, acts of the President of Ukraine and other normative-legal acts.

According to the third paragraph of part one of Article 4, part one of Article 5 of the Law of Ukraine "On State Property Management", the Cabinet of Ministers of Ukraine is a management entity that defines state property management objects for which it performs management functions, and also objects of management of state property, powers of management which are transferred to other entities of management specified by this Law.

The limitation of the influence of the Cabinet of Ministers of Ukraine on the Ministry of Finance of Ukraine on the issues of management of PJSC "NEC" Ukrenergo "is achieved due to the clear list of powers of the Cabinet of Ministers of Ukraine in the sphere of management of state-owned objects defined by Article 5 of the Law of Ukraine" On Management of State Property Objects ".

In addition, the Law of Ukraine "On Joint-Stock Companies" and the Law of Ukraine "On Management of State-Owned Objects" do not impose an obligation for the general meeting of shareholders of joint-stock companies, the sole shareholder of which is a state represented by authorized state bodies, to agree on decisions that are within the competence of the General Meeting, with the Cabinet of Ministers of Ukraine.

Thus, by managing the corporate rights of the state in the authorized capital of PJSC "NEC" Ukrenergo ", acting on behalf of the state as the founder and sole shareholder of the Company, the Ministry of Finance makes decisions that are within the competence of the general meeting of shareholders, regardless of the Cabinet of Ministers of Ukraine.

Item 5 of the Regulation on the Ministry of Energy and Environmental Protection of Ukraine , approved by the Cabinet of Ministers of Ukraine of January 21, 2015 No. 32 (as amended by the Cabinet of Ministers of Ukraine of September 18, 2019, No. 847), within the scope of management of enterprises engaged in activities of production and supply of electricity (natural gas), it is stipulated that the Ministry of Energy shall approve the investment programs of the operator of the electricity transmission system, which is in compliance with the provisions of Article 5 (4) of the Law.

However, given that under paragraph 6 of Article 6 ( 3) of the Law, the approval, review and control of the implementation of the investment programs of the transmission system operator falls within the powers of the Regulator, the NERCEC does not consider this to be a violation of the requirements for separation and independence of the CAP.

Based on the provisions of the legislation of Ukraine, the GSP activity is completely independent in legal, organizational and property aspects from the activity of production (production) and / or supply of electricity (natural gas).

### 3 . Compliance of JSC NEC Ukrenergo with Independence Requirements in Part of Management and Decision-Making

According to the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Formations, the founder and sole shareholder of PJSC NEC Ukrenergo is a state represented by the Ministry of Finance of Ukraine (EDRPOU code 00013480), to which 100 percent of shares (shares) in the authorized capital belong requests that are not subject to privatization or alienation.

The activities of state-owned joint-stock companies and state-owned holding companies, the sole founder and shareholder of which is the state in the person of authorized state bodies, are regulated by the Law of Ukraine "On Joint-Stock Companies", taking into account the peculiarities provided by special laws, in particular, the Law of Ukraine "On the Management of State Objects property" (hereinafter - the Law on Management).

The Law on Management establishes the powers of the Ministry of Finance of Ukraine as a governing body for the realization of the rights of the state as the owner of JSC NEC Ukrenergo.

Pursuant to Article 6 of the Law on Governance, the competent authorities are, in particular:

- make decisions on creation, reorganization and liquidation of state-owned enterprises, institutions and organizations;

- approve the charters (regulations) of enterprises, institutions and organizations belonging to the sphere of their management, and economic structures and monitor their compliance;

- determine the nominees of the persons who represent the interests of the state at the general meeting and in the supervisory boards of the companies, the functions for managing the corporate rights of the state in which they exercise, and in the supervisory boards of the state unitary enterprises (hereinafter - representatives of the state), ensure their election (appointment) ;

- determine the nominations of independent members of the supervisory boards in accordance with the procedure established by the Cabinet of Ministers of Ukraine, which are proposed for appointment (election) to the supervisory boards of state unitary enterprises .

In accordance with Articles 32 and 33 of the Law of Ukraine "On Joint Stock Companies", the supreme body of a joint stock company is the general meeting. The General Meeting may resolve any matter of the activity of a joint-stock company, except those that are within the exclusive competence of the supervisory board by law or by-law.

Pursuant to the provisions of the Statute, the exclusive competence of the General Meeting of PJSC "NJSC" Ukrenergo " shall include, in particular:

- approval of the Company's ownership policy ( sub-clause 10.69.2 of the Charter);

approval of the provisions of the General Meeting, the Supervisory Board, as well as amendments thereto ( subparagraph 10.9.12 of the Statute);

appointing and / or electing members of the supervisory board, making decisions on the termination of the powers of the members of the supervisory board, except in cases established by law ( subparagraph 10.9.13 of the Statute);

approval of the terms of civil contracts to be concluded with the members of the Supervisory Board, determination of the amount of their remuneration taking into account the requirements of the legislation of Ukraine, election of a person authorized to sign contracts with the members of the Supervisory Board upon submission of the Board of the Company ( subparagraph 10.9.14 of the Charter);

approval of the regulation on the remuneration of the members of the Supervisory Board of the Company ( subparagraph 10.9.15 of the Charter);

making a decision to consent to a significant transaction, or to give prior consent to such a transaction, and to engage in transactions of interest in cases provided for by law, upon submission of a supervisory board and (or) board ( subparagraph 10.9.22 of the Charter);

consent on disposal of property rights or shares of the Company included in its share capital, namely the right of economic management to the objects of main and interstate power 's networks and assets, ensuring the integrity of the unified energy system of Ukraine and dispatch (operational and technological ) management - the property is not subject to privatization in accordance with the legislation of Ukraine, upon submission of the supervisory board and (or) board ( subparagraph 10.9.23 of the Charter);

deciding on the separation and termination of the Company, liquidation of the Company, election of a liquidation commission, approval of the order and terms of liquidation, the order of distribution among shareholders of property that remains after satisfaction of the creditors' claims and approval of the liquidation balance ( subparagraph 10.9.32 of the Charter).

According to the resolution of the Verkhovna Rada of Ukraine dated August 29, 2019 No. 12-IX, Oksana Markarov was appointed to the post of Minister of Finance of Ukraine.

In addition, according to the order of the Ministry of Finance of Ukraine of August 9, 2019 № 337 directing the activities and management of enterprises and institutions as objects of state ownership, which belong to the sphere of management of the Ministry of Finance, is assigned to:

Deputy Minister for European Integration Heletiya Yu RI I and horovych and on state institutions' administration office projects of international financial cooperation ";

Deputy Minister Shkurakova in asyl I O leksandrovych and for the development of the State Enterprise "National Power Company" Ukrenergo ".

According to the open-ended annual declarations for 2018 and the information available to the NERCEP, it was found that:

1) close persons of the Minister of Finance of Ukraine Oksana Sergiyivna are the minority shareholders of the economic entity engaged in economic activity in the production of electricity. Given the fact that according to data of the Agency for Infrastructure Development stock market of Ukraine marked an entity related to the

management of the State Property Fund of Ukraine, which owns 78.3 % of shares NKREKP not consider it a violation of the requirements for the separation and independence of the CAP provided By the law . Within the meaning of the Law of Ukraine "On Prevention of Corruption" close persons are persons who live together, are connected by a common way of life and have mutual rights and obligations with the subject mentioned in part one of Article 3 of this Law ;

2) Deputy Minister of Finance of Ukraine Vasiliy A. as a state representative is a member of the supervisory board of the entity doing business with the production of electricity - a private company "UHE".

According to the available information in NKREKP Deputy Minister of Finance of Ukraine Vasiliy Alexandrovich is not the head of the supervisory board of JSC "UHE" and not the head of any of the committees formed by the Supervisory Board.

In accordance with Articles 51 and 55 of the Law of Ukraine "On Joint Stock Companies", the Supervisory Board of the Joint Stock Company is a collegial body that protects the rights of shareholders of the company and within the competence defined by the statute and this Law, manages the joint stock company, and controls and regulates the activity of the executive body. The decision of the Supervisory Board shall be taken by a simple majority of the members of the Supervisory Board who attend the meeting and have the right to vote, unless a majority of votes is cast for the decision of the charter of the joint-stock company. According to the Charter of JSC "UHE" , approved by the Ministry of Energy and Coal Industry of Ukraine of 11 December 2018, number 625, the supervisory board of JSC "UHE" consists of 7 members , and the decision of the Supervisory Board by a simple majority vote of the members of the supervisory board who participate at its meeting and have the right to vote, except as provided in the charter. In the event of an even distribution of votes, the vote of the Chairman of the Supervisory Board is decisive.

In addition, taking into account the provisions of Article 136 of the Economic Code of Ukraine, according to which the owner of property assigned to the right of economic control of the business entity, controls the use and storage of property owned by him through his authorized body, without interfering with the operational and economic activities of the enterprise , as well as Article 6 of the Economic Code of Ukraine, according to which state authorities, their officials are prohibited from illegally interfering with economic relations, the NERCEP does not consider this to be in violation of the requirements for the separation and independence of the CAP .

Thus, when performing the functions provided for the central body in the system of central bodies of executive power, which ensures the formation and implementation of the state financial and budgetary policy, the Ministry of Finance of Ukraine does not have a conflict of interests, which affects the objectivity or impartiality of decision-making, or committing or non-committing acting in the exercise of powers and acts only according to the Regulation of the Ministry of Finance of Ukraine approved by the Cabinet of Ministers of Ukraine dated 20 August 2014, number 375. Therefore, if the Ministry of Finance of Ukraine is not endowed with any tasks or powers regarding the formation and implementation of state policy in the fuel and energy complex and accordingly does not exercise sole or joint control

over any economic entity (including foreign ones) that carries out production (production) activities and / or the supply of electricity (natural gas).

The management of PJSC “NEK“ Ukrenergo”, as well as the control and regulation of the activity of the Board of the Company are carried out by the Supervisory Board, which is a collegial body and consists of seven members, four of which must meet the criteria of independence and requirements established by the legislation of Ukraine .

The staff of the Supervisory Board is approved by the General Meeting as a result of the decision on the appointment of state representatives to the Supervisory Board and on the basis of competitive selection of independent members of the Supervisory Board in accordance with the laws of Ukraine.

In accordance with the provisions of the Statute of JSC “NEC“ Ukrenergo”, the exclusive competence of the Supervisory Board shall include:

making a decision to consent to a significant transaction, or to give a prior consent to such a transaction, and to give consent to commit transactions with interest in the cases provided for by law, upon submission of the Board of the Company ( subparagraph 11.13.11 of the Charter);

election, appointment, termination of office, removal of the chairman of the board, election of a person who will temporarily exercise the authority of the chairman of the board of the Company, except in cases of temporary absence of the chairman of the board (vacations, business trips, temporary disability, etc.) (subparagraph 11.13.12 of the Charter);

election, appointment, termination of powers, removal of members of the Board upon submission of the Chairman of the Board of the Company ( subparagraph 11.13.13 of the Charter);

election and termination of powers of the chairman and deputy chairman of the supervisory board, chairmen and members of the committees of the supervisory board, approval of the provisions on the committees of the supervisory board ( subparagraph 11.13.23 of the Charter);

appointment and dismissal of the head of the internal audit unit (internal auditor) ( subparagraph 11.13.32 of the Charter);

election of an auditor (audit firm) of the Company to conduct an audit on the results of the current and / or past years, determine the terms of the contract to be concluded with such an auditor (audit firm), establish the procedure and amount of payment for its services upon submission of the Company's Board of Directors the task and approval of the results of the selection conducted in accordance with the requirements of the legislation of Ukraine on public procurement ( subparagraph 11.13.33 of the Charter);

approval of appointment and dismissal of the head of the authorized unit (person) for the prevention and detection of corruption (the person responsible for implementation of the Company's anti-corruption program (Compliance Officer)) ( subparagraph 11.13.36 of the Charter);

at the decision of the general meeting, the Supervisory Board may be responsible for resolving certain issues that are within the competence of the general meeting, except those that fall within the exclusive competence of the general meeting ( subparagraph 11.14 of the Charter);

in the case of reorganization of the Company, the Chairman and members of the Supervisory Board, who were elected in due course, are appointed to the respective positions without holding a new selection ( subparagraph 11.43 of the Charter).

Under paragraph 7 order of the Ministry of Finance of Ukraine on 29 July 2019 roku № 321 "Some the creation of a private company" National Power Company "Ukrenergo" was created supervisory board of NPC "Ukrenergo" consisting of:

Independent members of the Supervisory Board: Shevki Adjuner (Chairman of the Supervisory Board), Luigi de Francis, Oliver Appert, Peder Ostermark Andreassen;

state representatives: C Kushnir erhiya and vanovycha and Poplavskiy Alexander and Anatolyevich .

According to the data and information provided by JSC NEC Ukrenergo, it was found that Shevki Adjuner and Kushnir Sergiy I. vanovich are also members of the Supervisory Board of JSC "Ukrzaliznytsya" (EDRPOU code 40075815), which conducts energy distribution and electricity distribution activities. is also the founder of "eENERGY SALES TRANS" (enterprise code 42588390), which is licensed to supply electricity to consumers in accordance with resolution NKREKP of 27 November 2018 roku number 1539.

According to the Law of Ukraine "On Joint Stock Companies":

the joint-stock supervisory board is a collegial body. The chairman of the supervisory board does not have powers that would enable him to directly influence the management and performance of business activities both directly of a joint stock company and of legal entities whose founder (participant) is a joint stock company;

officials of joint-stock companies should act in the interests of the company, comply with the requirements of the law, the provisions of the charter and other documents of the company.

Q Stop Cabinet of Ministers of Ukraine dated 02 September 2015 roku № 735 approved the Statute of Joint Stock Company "Ukrainian Railways" and resolutions of the Cabinet of Ministers of Ukraine dated 31 October 2018 roku number 938 described it in the new edition (hereinafter - the Charter of JSC "UZ").

According to Mr unktom 18 of the Charter of JSC "UZ" Company in due course has the right to be a founder, co-founder and member of other entities.

According to subparagraph 18 of clause 105 of the Charter of JSC "Ukrzaliznytsya", the competence of the board of JSC "Ukrzaliznytsia" includes the resolution of all issues of management of legal entities, shareholders (founder, member) of which are a company, as well as branches, representative offices and other separate divisions. For subsidiaries (companies), the founder of which is a company, the decisions made by the board are the decisions of their general meeting and are binding on other bodies (body) of these legal entities. For companies, the sole shareholder (founder, member) of which is a company, the decision of the board of the company is the basis for the decision of the general meeting of shareholders (participants) of such companies signed by the chairman of the board. For companies in which the company is not a sole shareholder (founder, member), the decision of the board is the basis for the task of the representative of the company to vote at the general meeting of shareholders (founders, participants) of such companies.

That is, the Supervisory Board of JSC “Ukrzaliznytsya” is not empowered to make decisions on the management of legal entities whose shareholder (founder, member) is JSC “Ukrzaliznytsya” , in particular, LLC “ENERGO SALES TRANS” .

Thus, the NERC considers the entry of two members of the Supervisory Board of JSC NEC Ukrenergo at the same time into the Supervisory Board of JSC Ukrzaliznytsia as such, which does not create risks in compliance with the requirements for separation and independence of the CAP provided by the Law.

#### 4 . Compliance of JSC NEC Ukrenergo with Independence Requirements Regarding Management of Current Activity

Pursuant to the By-Laws, the Board of Directors of JSC NEC Ukrenergo PJSC conducts the Board of Directors, which is a collegial executive body of the Company. The Board of Directors of the Company shall be composed of not less than three and not more than five members, including the Chairman of the Board .

According to the Statute, the competence of the Board of the Company shall be: disposal of property and assets of the Company, subject to the restrictions established by the legislation of Ukraine and the Charter ( subparagraph 12.9.1 of the Charter);

the appointment and dismissal of the Risk Manager, the approval of the Risk Manager and the Risk Management Program ( sub-clause 12.9.4 of the Charter);

election, appointment and termination of authority of the governing bodies (heads) of branches, branches, representations, other separate divisions of the Company, making a decision on changing their location, approving provisions, making other decisions regarding the activities of separate divisions of the Company ( sub-clause 12.9.6 of the Charter);

Chairman of the Board:

in accordance with the established procedure and taking into account the requirements of the Statute and the Branch Agreement, decides on the hiring and dismissal of employees of the Company ( subparagraph 12.10.10 of the Charter);

submit to the Supervisory Board of the Company proposals on election, termination of powers, removal of members of the Board of the Company ( sub-clause 12.10.13 of the Charter);

appoints and dismisses the head of the authorized unit (person) for the prevention and detection of corruption (the person responsible for the implementation of the Company's anti-corruption program (Compliance officer)) by agreement with the supervisory board ( subparagraph 12.10.14 of the Charter);

in accordance with sub-clauses 12.9.4 - 12.9.6 of the Statute, the competence of the Board of the Company includes the appointment and dismissal of the head of risk management, deciding on the election, appointment, termination of authority of management bodies (heads) of legal entities, founder, co-founder or is a member of the Society, and the election, appoint e ting and termination of powers of administration (management) branches, representative offices and other separate units of the Company.

In accordance with the decision of the Supervisory Board of PJSC “NEC“ Ukrenergo ”(minutes № 7/2019 meeting of the Supervisory Board of PJSC“ NEC



“Ukrenergo” dated August 29, 2019), the Board of Directors of the Company was appointed as follows:

Acting Chairman of the Board of JSC NEC Ukrenergo - Kovalchuk Vsevolod,  
board members:

Volodymyr Kudrytskyi (First Deputy Chairman of the Board of Ukrenergo,  
JSC);

Andriy Nemirovsky (Deputy Chairman of the Board of JSC NEC Ukrenergo);

Yurkov Maxim;

Sleeveless Marina.

The annual open access declarations for 2018 and the information received from the members of the Board of Directors of PJSC “NEK“ Ukrenergo ”certify that under the direct or indirect sole or joint control or right of the said officials there are no economic entities (including foreign) engaged in the production (production) and / or supply of electricity (natural gas).

In accordance with paragraph 3.6. Of the Statute, JSC “NEC “ Ukrenergo ”has the right to make transactions in accordance with the legislation of Ukraine and this Charter, to acquire property and non-property rights, obligations and to exercise them, to be a plaintiff and defendant in court in accordance with the legislation of Ukraine.

According to sub-clause 10.9.22 of clause 10.9 , sub-clause 11.13.11 of clause 11.13 of the Statute of deciding whether to consent to commit a significant deed or to give prior consent to commit such deed and to engage in deed of interest is the exclusive competence of the general meeting of shareholders The company or the supervisory board in cases provided for by law.

According to paragraph 4 of part one of Article 2 of the Law of Ukraine "On Joint Stock Companies" a significant transaction - a transaction (except a transaction for placement of a company own shares), committed by a joint stock company, if the market value of the property (works, services), which is its subject, is 10 and more than one percent of the value of the company's assets, according to the latest annual financial statements.

In accordance with the first and second sections of Article 70 of the Law of Ukraine "On Joint Stock Companies", the decision to consent to a significant transaction is made by the Supervisory Board if the market value of the property or services that is its subject is from 10 to 25 percent of the value of the assets according to the latter annual financial statements of the joint-stock company.

If the market value of the property or services that is the subject of a significant transaction exceeds 25 percent of the value of the assets according to the latest annual financial statements of the joint-stock company, the decision to grant consent to such a transaction is made by a general meeting upon submission of the supervisory board.

Other transactions that are not significant or interest-related transactions (if the market value of the property or services or the amount of the assets subject to the transaction exceeds 1 percent of the value of the assets according to the last annual financial data) , are made by the Company on the basis of decisions of the Management Board.

Thus, based on the provisions of the Charter, the Ministry of Finance of Ukraine has no significant influence on the current activities of JSC NEC Ukrenergo .

Taking into account the above , JSC “NEK“ UkRENERGO ”meets the requirements for the independence of the GSP in the part of management and decision making stipulated by the Law and the Certification Procedure .

## 5 . Compliance of Ukrenergo PJSC with the Ownership Requirements for the Electricity Transmission System

According to Article 32.3 of the Law, the transmission system operator may be exclusively the owner of the transmission system and.

In addition, part three of Article 31 of the Law provides that the state owns 100 percent of the shares (shares) in the authorized capital of the transmission system operator, which are not subject to privatization or alienation in any other way.

The legal form of the Applicant is a joint-stock company. The founder and sole shareholder of Ukrenergo PJSC is the state represented by the Ministry of Finance of Ukraine (EDRPOU code 00013480), which owns 100 percent of the shares (shares) of the Applicant's authorized capital that are not subject to privatization or alienation in any other way. part three of Article 31 of the Law.

According to Article 326 of the Civil Code of Ukraine, on behalf of and in the interests of the state, the right of state ownership is exercised by the state authorities.

Pursuant to Article 22 of the Economic Code of Ukraine (hereinafter referred to as the Civil Code of Ukraine), the State exercises the right of state ownership in the public sector of the economy through a system of organizational and economic powers of the relevant management bodies concerning the entities belonging to this sector and carrying out their activity on the basis of the economic right. management (used for business purposes) or operational management rights (used for non-business activities) .

R ozporyadzhenniam Cabinet of Ministers of Ukraine dated 22 November 2017, looking № 829-p of caste Leno that property that ensures the integrity of the unified energy system of Ukraine and the controller's (technological operatively) management backbone and interstate power networks that are on the balance state Enterprise " National power company " Ukrenergo " , attached to a private joint stock company formed in the transformation of the enterprise on the right of business and not be alienated .

According to the transfer act of assets and liabilities on the accounts of the State Energy Company Ukrenergo, approved by the order of the Ministry of Finance of Ukraine dated July 29, 2019 No. 321 (hereinafter referred to as the transfer act) , all obligations of the State Energy Company SE Ukrenergo ”to creditors, all rights and obligations, as well as all assets and liabilities are transferred to the assignee - PJSC“ NEK “UkRENERGO”. Prior to the share capital on the right of business inc Hainaut backbone and interstate power networks and assets, ensuring the integrity of the unified energy system of Ukraine and dispatching (opera atyvno and technological) .

The list of objects of transmission specified in the Register of fixed assets that are not included in the authorized capital of the company as at 31 March 2019 roku , annexed to the transfer act.

According to the explanatory memorandum to the transmission act as , and other information and data provided by JSC "NPC" Ukrenergo ", the structure of JSC" NPC "Ukrenergo" based on a territorial basis and integrates head office and 8 power systems (ES) from operational functions - Dispatching Directorate covering the whole territory of Ukraine, namely: Dniprovskaya ES, Western ES, Southern ES, Southwestern ES, Northern ES, Central ES, Donbass ES (located in the area of anti-terrorist operation), Crimean ES (temporarily located) occupied territory).

The balance sheet and management of PJSC “NEC“ Ukrenergo ”are, in particular:

137 110 - 750 kV substations with total installed capacity of autotransformers and power transformers 80139.1 MVA:

<b>High-voltage</b>	750 kV	500 kV	400 kV	330 kV	220 kV	110 kV
<b>Number of substations, units</b>	8	2	2	88	33	4

21,766 thousand km along the highway (23,348 thousand km - along the circuits) of the main and interstate air transmission lines with a voltage of 220 - 750 kV:

<b>High-voltage</b>	800	750	500	400	330	220	110	35
<b>Length along the route, km, units</b>	98.54	4403,17	374,76	338,95	12970,83	3019,39	448,73	112.44

Pursuant to Article 5 of the Law of Ukraine “On State Registration of Real Property Rights and Burdens on Real Estate”, the State Register of Rights shall record real rights and their burdens on land plots, as well as on real estate objects located on land, namely: dwellings, buildings, constructions, as well as their separate parts, apartments, residential and non-residential premises. The property rights and their encumbrance are not subject to state registration separately for the structures belonging to the main thing or an integral part of the thing, in particular for main and industrial pipelines (including gas distribution networks), electric networks, main thermal networks.

Thus, backbone and interstate power grids are not subject to state registration and, accordingly, are absent in the state register of real rights to real estate and their encumbrances.

The presence of PJSC "NPC" Ukrenergo "land on which the plants and supports transmission and interstate power networks supported informatio yeyu from the State Register of rights to immovable m Aino.

According to Article eyu 136 Civil Code of Ukraine the right of economic management right is a real entity, which owns, uses and disposes of the property assigned to it by the owner (authorized body), with a restriction on powers of disposal of certain types of property with the consent of the owner in cases provided for by this Code and other laws. The owner of the property, fixed on the right of economic management by the subject of the enterprise, controls the use and preservation of the property belonging to him directly or through his authorized body, without interfering with the operational and economic activities of the

enterprise. A business entity that conducts business activities on the basis of a business right has the right to protect its property rights from the owner as well.

Thus, the right of economic ownership gives PJSC "NEK" UKRENERGO "an opportunity to carry out practically all functions of the owner of the transferred property, namely: the right to own, use and dispose of the transferred property with the only restriction on the need to obtain the prior consent of the owner ( state authority, which exercises the right property of the state - the Ministry of Finance ) at the disposal of property assigned to JSC "NEK" UKRENERGO " on the right of economic control.

The legal basis for the economic entity to have the right of economic ownership of property is the decision of the subject of management to fix property on the right of economic management. At the same time, the legislation of Ukraine provides for the possibility of absence of contracts between the owner (his authorized body) and the economic entity on the attachment of property to the right of economic management.

In addition, according to the legislation of Ukraine, the right of economic management of PJSC "NEK" UKRENERGO "for the objects of the transmission system, as well as the ownership right, is indefinite and does not prevent them from receiving investments and credit funds, since as a state-owned enterprise , and and takozh as the subject of natural monopoly JSC "NPC" UKRENERGO " can be financed through the tariff, the state budget or credit funds that are involved in international financial institutions under state guarantees.

The NERCEP establishes that PJSC "NEK" UKRENERGO "owns objects of the system of transfer on the right of economic management, which according to the current legislation of Ukraine is a real right derived from the ownership right and is one of the means of realization by the state of the right of state ownership in the public sector of the economy.

However, the presence of PJSC "NPC" UKRENERGO " system objects to transfer the right of business does not correspond to the parts and tert first Article 32 of the Law , which predict Hainaut that the transmission system operator may be only the owner of the transmission system .

Accordingly, the final decision on certification of PJSC "NEK" UKRENERGO "is possible only after making the relevant amendments to part three of Article 32 of the Law.

## 6 . Compliance PJSC "NPC" UKRENERGO "on a ykonannya responsibilities of transmission system operators

Article 12 of the Directive and Article 33 of the Law define the tasks and functions of the CAP, confirmation of compliance with which was provided by the Applicant - PJSC "NEK" UKRENERGO ".

To confirm financial independence and capacity of PJSC "NPC" UKRENERGO "invest the necessary investment in the transmission of electricity, H K REKP checked that the legislative and regulatory framework not only enables matching of revenues, but also realized significant investments in capital since the creation SE" NPC "UKRENERGO" , which is also confirmed given th feeder request financial th

report century th at which the summary information on the main indicators of financial and economic activity feeder request Mr. and 2016 - and pivrich 2019, and the 2018 financial statements audited by Deloitte , an independent auditor of PJSC Deloitte & Touche.

According to the second paragraph of Article 75 of the Civil Code of Ukraine, the main planning document of a state-owned commercial enterprise is a financial plan according to which the enterprise receives income and expenditures, determines the amount and direction of funds to perform its functions during the year in accordance with the constituent documents.

The financial and economic activities of Ukrenergo, a natural monopoly, are carried out in accordance with the financial plan, which is subject to approval by the Cabinet of Ministers of Ukraine by December 31, which precedes the planned one.

Sub-clause 10.9.8 of clause 10.9 of the Statute provides that the consideration and approval of the draft financial plan of the Company prepared by the Management Board and agreed by the Company's Supervisory Board, taking into account the approved structure of the tariff, is the exclusive competence of the General Meeting.

Clause 3.15 of the Charter stipulates that the financial and economic activities of the Company shall be carried out in accordance with the structure of the tariff for electricity transmission services and services from the dispatching (operational-technological) management and the financial plan, which is prepared by the Company in accordance with the legislation of Ukraine, approved by the Supervisory Board and approved in accordance with the legislation of Ukraine.

Pursuant to paragraph 3.14 of the Statute, the Company's financial plan must be consistent with the Company's strategy and, in terms of regulated activity, the structure of the tariff for electricity transmission services and dispatching (operational-technological) management services.

Therefore, in accordance with the provisions of the legislation and the Statute, the draft financial plan of JSC NEC "Ukrenergo" consists of taking into account the structure of the tariff for electricity transmission services and the tariff for dispatching (operational and technological) management services.

CJSC "NEC" Ukrenergo "provides financial plan in accordance with the Procedure for preparation, approval and control of the financial plan of the entity's public sector, approved by the Ministry of Economic Development and Trade of Ukraine 02 March 2015 roku № 205 (hereinafter - Procedure).

According to the provisions of the Procedure, the draft financial plan of the enterprise, together with the explanatory note, shall be submitted to the subject of management of state-owned objects (hereinafter referred to as the subject of management) by 1 June of the year preceding the planned one. The management entity draws up financial plans, taking into account the approved structure of tariffs for electricity and heat, and submits to the Ministry of Economic Development and Ministry of Finance for approval the draft decision of the Cabinet of Ministers of Ukraine with an explanatory note to which is attached the draft financial plan of the enterprise, signed by the head of the enterprise. The Ministry of Economic Development and the Ministry of Finance elaborate the materials and make decisions regarding its approval or disagreement. In case of any comments to the draft decision of the Cabinet of Ministers of Ukraine and / or the financial plan of the enterprise,

the Ministry of Economic Development and the Ministry of Finance shall submit them separately (with justifications) together with the draft decision of the Cabinet of Ministers of Ukraine approved on approval of the financial plan of the enterprise. Having received the conclusions of the Ministry of Economic Development and the Ministry of Finance, the management entity submits the draft decision of the Cabinet of Ministers of Ukraine in due course for approval by the Cabinet of Ministers of Ukraine.

Thus, the preparation and approval of the financial plan of PJSC “NEC “Ukrenergo” as an entity of the public sector economy is carried out with the direct participation of the Company in the person of authorized management bodies (general meeting of shareholders, supervisory board, board) and with the participation of the Ministry of Economic Development, Ministry of Finance. , The Cabinet of Ministers of Ukraine. At the same time, the powers of each of the entities are clearly defined by the current legislation and the Charter of the Company, which guarantees the impartiality and limited influence of each of these bodies on the CAP in the process of drawing up and approval of the Company's financial plan.

With the dignity of the Cabinet of Ministers of Ukraine dated 03 October 2012 roku № 899 "On procedure for entities spending public sector if not approved (disagreement) annual financial plans in the prescribed manner" entities of the public sector in the event of non-approval ( disagreement) of annual financial plans in accordance with the established procedure may incur costs directly related to the production and sale of products (goods, works, services). It is forbidden to spend on:

capital investments (except in cases decided by the Cabinet of Ministers of Ukraine);

purchase and rental of cars;

marketing and information consulting services;

consulting services;

insurance (except for the costs of compulsory state social insurance, compulsory insurance and insurance under international treaties);

representative activities;

production and distribution of advertising;

charity, sponsorship and other assistance;

deduction to the reserve of doubtful debts;

can not sell, write off state property, pay rewards (bonuses) to managers.

These restrictions are effective for the period prior to approval (approval) in accordance with the established annual financial plan of the entity.

Therefore, the approval of the financial plan of the Company in no way affects the activity of JSC "NEC " Ukrenergo "in the implementation of operation, dispatching, maintenance, maintenance of the transmission system and interstate transmission lines.

Also, JSC “NEC“ Ukrenergo” as a business entity in accordance with the general legislation (Civil Code of Ukraine, Civil Code of Ukraine) has the right to independently attract credit funds for the needs of its business activity, to place bonds and other securities (except for shares), to purchase bonds and other securities with a corresponding reflection of these transactions in financial terms.

At the same time, part four of Article 67 of the Civil Code of Ukraine stipulates that state-owned enterprises, including commercial companies (except banks), in whose authorized capital the state owns 50 and more percent of shares (shares, units), engage in internal long-term (more one year) and external loans (loans), provide guarantees or are guarantors of such obligations, in agreement with the central executive body that implements the state financial policy, engage in internal short-term (up to one year) loans (loans) provide guarantees or guarantors are under such commitments - in coordination with the executive body which carries out functions of state property. The procedure for such approvals shall be established by the Cabinet of Ministers of Ukraine.

JSC “NEC “ Ukrenergo ” holds preliminary consultations with international financial institutions ( hereinafter referred to as IFIs) regarding the possibility of attracting credit to finance these projects. As a result of the consultations, the IFI has expressed an early interest in preparing certain projects that may be eligible for funding.

The procedure for the preparation, implementation, monitoring and completion of projects of economic and social development of Ukraine, supported by international financial institutions approved by the Cabinet of Ministers of Ukraine dated 27 January 2016 looking number 70 (hereinafter - Procedure). Pursuant to the first paragraph of paragraph 6 of the Procedure of JSC NEC Ukrenergo PJSC, the project proposal is prepared and sent to the Ministry of Finance of Ukraine for the examination, which is provided by the fourth paragraph of paragraph 6 of the Procedure. According to the results of the examination, the Ministry of Finance, in accordance with the first paragraph of paragraph 9 of the Procedure, makes a decision (order) on the feasibility of preparing an investment project.

Attraction of MFI funds is carried out in agreement with the central executive authorities, namely: Ministry of Finance of Ukraine, Ministry of Economic Development and Trade of Ukraine, Ministry of Foreign Affairs of Ukraine, Ministry of Justice of Ukraine and the National Commission for State Regulation of Energy and Utilities in accordance with indent the first paragraph 15 of the Order and subsection 1, paragraph 1 d Advanced Procedure 5 and subject to the adoption of the act and the Cabinet of Ministers of Ukraine to attract loans for certain IFIs f nansuvannya relevant investment project (in accordance with paragraph fifth paragraph 15 of the Order).

In order to implement the projects of economic and social development of Ukraine supported by international financial organizations, JSC NEC Ukrenergo has concluded a number of agreements on granting of subcredit, subcredit agreements that are currently effective, JSC NEC Ukrenergo continues to fulfill its obligations. after them.

According to the terms of these agreements on granting a sub-loan (sub-loan agreements), the Ministry of Finance of Ukraine, the Borrower - JSC NEC Ukrenergo acted as the Sub-lender . The sub-loan is provided by the Finance Ministry of JSC NEC Ukrenergo, taking into account the requirements, conditions and terms specified in the credit, project agreements and agreements on granting of sub-loan (sub-loan agreements).

Thus, the cooperation of JSC NEC Ukrenergo with international financial institutions (International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, European Investment Bank, Credit Facility for Reconstruction (KfW)) with participation of public authorities allows to attract investment in development that ensure the development of the transfer system, the proper performance of the functions and responsibilities assigned by the current CAP legislation, the financing of the largest investment projects that provide the search for reliability of electricity supply for industrial consumers and the population, energy security of the state, integration of the electricity market with the pan-European electricity market and integration of the Ukrainian UES into ENTSO-E.

Credit resources are granted under government guarantees for 15-20 years or more with low interest rates compared to the terms of lending to Ukrainian commercial banks and the value of other financial instruments. Accordingly, such a guarantee imposes on the State joint responsibility with the CAP for the repayment of loans, and therefore is an additional guarantee for the effective realization of investments in the development of the network.

In addition, the Procedure for approval of involvement of state-owned enterprises, including companies (except banks), in which the authorized capital of which 50 or more percent of the shares (shares) belong to the state, loans (loans), provision of guarantees or sureties under such obligations, approved Cabinet of Ministers of Ukraine dated 15 June 2011 roku № 809 (hereinafter - Order number 809) is determined to claim rotsedura approval involvement PJSC "NPC" Ukrenergo " loans (loans) by the loan agreement, the loan agreement or the bonds enterprises SMEs (hereinafter - the involvement of credit (loan)), which resulted in having the obligation to refund and guarantee or surety by such obligations .

Paragraph 2 of Order No. 809 provides that the borrowing, lending or surety undertaking of such an undertaking agrees:

Ministry of Finance - for internal long-term (more than one year) and external loans (loans);

executive body, which performs the functions of managing the state property or the Ministry of Economic Development, if the functions of managing the state property are performed by the Cabinet of Ministers of Ukraine (hereinafter - the authorized body) - for internal short-term (up to one year) loans (loans).

Thus, internal long-term (more than one year), external loans (loans), provision of guarantees or sureties under such obligation, attraction of internal short-term (up to one year) loans (loans) is carried out by JSC "NEC" Ukrenergo "in agreement with the Ministry Finance of Ukraine and in compliance with the requirements of the Charter of the Company regarding the procedure of execution of transactions (conclusion of contracts).

In addition, it should be noted that the Company's powers to repay loans (loans) are not affected by the fact that the Company uses state property, which is not subject to privatization in accordance with the legislation of Ukraine, on the economic right .

Pursuant to paragraph 3.15 of the Charter, the financial and economic activities of the Company shall be conducted in accordance with the structure of the tariff for electricity transmission services and the services of dispatching (operational-technological) management and the financial plan, which is drawn up by the



Company in accordance with the legislation of Ukraine, approved by the Supervisory Board and approved accordingly to the legislation of Ukraine.

According to the tariff structure for dispatching (operational and technological) management services of PJSC "NEC" Ukrenergo ", approved by the NERC, a part of the cost of services for dispatching (operational and technological) management included in the tariff calculation is borrowed funds.

In addition, JSC NEC Ukrenergo does not subcontract any of its obligations to a third party and has sufficient human, technical and financial resources within the organization to fully discharge its responsibilities under the charter.

JSC "NEC" UKRENERGO "has the necessary personnel for the effective fulfillment of all its obligations stipulated by the Law. At the same time, the NERCEP does not approve personnel costs separately, therefore PJSC "NEC" UKRENERGO "is independent in hiring employees and setting their wages.

Personnel resources of JSC NEC Ukrenergo necessary for the performance of activities, functions and powers of the CAP, provided for by the Law and regulations, also include employees whose employment contracts were concluded prior to the transfer of NJSC "Ukrenergo" from the Ministry's sphere of administration of the Energy and Coal Industry of Ukraine to the sphere of management of the Ministry of Finance of Ukraine and to the transformation of a state-owned enterprise into a private joint-stock company and state registration of a private joint-stock company onal power company "Ukrenergo".

With the wording of paragraphs 36 and 15 of Article 36 of the Labor Code, the change of subordination of an enterprise, institution, organization does not terminate the employment contract. In case of change of the owner of the enterprise, as well as in case of its reorganization (merger, acquisition, division, separation, transformation), the employment contract of the employee continues.

In order to enable the personnel of the GSP to perform all their duties and functions, a proper and sufficient material and technical base of special equipment and special mechanisms was created at PJSC "NEC " Ukrenergo "; appropriate electrotechnical laboratories, general systems of information technologies were created and functioning for the repair works . including servers and the Internet, as well as software to perform the functions of commercial accounting administrator, billing administrator, dispatching and electricity transmission.

In addition, JSC NEC Ukrenergo provided documents, data and information confirming the independence of JSC NEC Ukrenergo in decision-making regarding the provision of services for connection and access to the transmission system, in particular by the legislation established by Ukraine:

the right of the CAP to refuse access to the power grids in case of insufficient bandwidth of the power grids, providing a justification for the reason for such failure, which should be based on objective and technically and economically justified criteria, as well as information about the reasonable period required to create a bandwidth reserve in accordance with a plan approved by the Regulator for the development of a transmission or distribution system.

the ability to bounce CAP IT and in joining to electrical transmission systems provided non customer requirements Transmission System Code, approved by NKREKP of 14 March 2018 roku number 309.

## 7 . Compliance of Ukrenergo PJSC with respect to the implementation of the obligations of the transmission system operator in the part of providing information

The list of information constituting confidential information, OSP determined by the Regulations on trade secrets and confidential information of PCB, approved by the NPC "Ukrenergo" of 09 January 2018 roku number 4 (hereinafter - Regulation of trade secrets), and other internal documents regulating issues of protection and regulation of access to restricted information.

Management of information, including classified, OSB employees governed CAP information security policy, approved by the NPC "Ukrenergo" of 23 July 2019 roku № 403 (hereinafter - Information Security Policy CAP) and the Regulations on commercial secrets.

Information which is considered to be a trade secret and / or confidential information of the CAP shall be accessed in accordance with the Regulations on Trade Secrets, which specify:

- a list of proprietary information and confidential information;
- the procedure for accounting, access and protection of trade secrets and confidential information has been determined;
- the procedure for storage, use of information containing trade secrets and confidential information;
- peculiarities of issuing documents by employees of the enterprise, providing information containing trade secrets and confidential information to third parties;
- responsible for the disclosure of proprietary information and confidential information.

Each GSP employee and officers of the supervisory authorities who have access to the GSP's trade secrets and confidential information must familiarize themselves with the GPA and sign the relevant undertaking to disclose commercial and confidential information, and warnings of liability for misconduct are kept confidential and confidential.

The Trade Secrets Act also provides for the following controls on employees' activities that are granted access to restricted information:

- access is granted only to employees who, in accordance with their job responsibilities, are required to have access to restricted documents and information;
- it is forbidden to disclose information with restricted access after termination of employment contract, and to use such information for personal purposes;
- in the event of termination of the employment contract, the employee is obliged to transmit to the CAP common material media of information containing restricted information.

Officials of the structural units of the CAP are prohibited from:

- use the information received from market participants in the performance of the functions of the CAP, the implementation of dispatching (operational and technological) management of the operating modes of the UES of Ukraine, the administrator of payments and the administrator of commercial accounting, for the commercial benefit of the CAP and / or any market participant;

remove copies from paper or electronic media, make extracts from documents containing restricted access information, make originals or copies of such documents outside the place of work, transfer them to GSP employees and other persons who do not have the authority to access such information;

to acquaint CAP workers and other disabled persons with restricted information;  
destroy paper media containing restricted information, except as otherwise provided for in the storage period;

officials and employees of the GSP, its authorized representatives do not disclose restricted information to third parties during their work in the GSP and after the termination of contractual relations with the GSP, except in cases provided by law, unless:

received permission / consent to its disclosure from the person to whom the GSP has accepted the obligation to keep confidential the relevant information;

the information is no longer confidential due to its widespread public disclosure;

disclosure of relevant information is required by law.

Thus, according to the order of 09 January 2018 roku № 4 "On approval of the trade secrets and confidential information OSP" OSP staff responsible for failure or improper fulfillment of obligations on non-disclosure of confidential information and information constituting a trade secret.

The provision of information security of the GSP is carried out in accordance with the GSP Information Security Policy, which is a document of the Information Security Management System (ISMS), which establishes a policy for providing information security when operating in the GSP with information in the GSP premises and information infrastructure, including paper information and information recorded on removable media.

In accordance with the order of JSC NJSC Ukrenergo dated July 23 , 2019 , No. 403:

provision of information security of the CAP is carried out, in particular, through the introduction of modern network security, monitoring and event monitoring tools that allow to increase the overall level of cybersecurity in the enterprise; modernization of means of business continuity; working out of processes of operative restoration of systems; introduction of additional means of identification and authentication of users;

officials and employees of the GSP, its authorized representatives adhere to safe rules of use of information infrastructure by users of all levels.

By using computer technology workers OSB guided and followed the order of 20 April 2016 roku "Rules to ensure information security when using computer technology staff CAP" Politicians use mobile OSB "of 31 January 2018 roku Vn.№ Half 2568 and the procedure for connecting USB storage media to PC users of the control unit. "

## 8 . Powers of Ukrenergo JSC to Implement Dispute Settlement Provisions

General Procedure for complaints and dispute resolution provided by the Code transmission system approved by th Resolution NKREKP on March 14, 2018 № 309 (hereinafter - the Code).

According to Chapter 5 of the Code, if a dispute arises between the CAP and the user, they must take comprehensive measures to resolve it through negotiation. In case of violation of his rights and legitimate interests provided by the Code, the user has the right to appeal to the GSP with a complaint / complaint / claim.

The CAP is obliged to develop and publish on its own Internet site a procedure for consideration of users' complaints / complaints / claims and a form of submission / complaints / claims that takes into account the requirements of this Code and other regulations of the Regulator.

The CAP must consider an appeal / complaint / claim within a maximum period of 30 calendar days from the date of receipt of the appeal / complaint / claim, unless a shorter deadline is set by applicable law and this Code.

If the User does not agree with the decision made by the GSP upon his / her complaint / complaint / claim, he / she has the right to appeal against such decision by applying to the NERC.

The decision of the NERCEP during the pre-litigation of the dispute shall be binding upon the parties to the dispute. The User and / or the GSP have the right to appeal the decision made by the NERCEP during the consideration of the consumer's appeal and / or the pre-litigation of the dispute between the User and the GSP , in court in accordance with the legislation of Ukraine.

## 9 . Conclusions

Due granted P odavachem certification request , other stakeholders and institutions of documents, data and information NKREKP generally inst and adopting a preliminary decision on the certification of PJSC "NPC" Ukrenergo ".

However, taking into account the need to ensure the abovementioned measures necessary for the final decision on the certification of the transmission system operator, it is also proposed:

1 . Oblige private company "National Power Company" Ukrenergo " until 20 October 2019 to carry out actions to exclusion from C tatut in PJSC" NPC "Ukrenergo" provisions do not comply with the law and other legal acts in the field of energy the functions, rights and responsibilities of the transmission system operator , in particular paragraphs 2.2.15, 2.2.18 - 2.2.20 , 2.2.24 - 2.2.27 .

2 . To establish that the final decision on the certification of the Private Joint Stock Company "NATIONAL ENERGY COMPANY" UKRENERGO "is possible after making changes to part three of Article 32 of the Law on the assignment of the owner to the transfer of the system to the right of transfer of the economic system .