Ukraine Facility Platform

Draft Law on the Integration of Energy Markets

Positive Aspects **vs** Potential Loopholes

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Summary

The Draft Law "On Amendments to Certain Laws of Ukraine Concerning the Implementation of European Law on Energy Market Integration, Enhancement of Security of Supply and Competitiveness in the Energy Sector" (No. 12087-d) **represents a significant step towards alignment with EU norms.** The draft law provides for:

- the transition to a 15-minute imbalance settlement period,
- partial regulation of negative prices,
- harmonisation of balancing products with European standards,
- the introduction of a legal basis for citizen energy communities, and
- the streamlining of capacity mechanisms.

In this format, it can support integration with the European market and strengthen investment signals provided that exceptional instruments remain genuinely exceptional, time-limited, and transparently justified.

At the same time, the draft contains several gaps requiring targeted revision:

1. The procedure for introducing the 15-minute imbalance settlement period is reduced to a two-stage process – regulator's assessment –> separate regulatory decision – with no fixed deadline, creating a risk of delayed implementation.

2. Provisions on price caps formally unlock the possibility of negative prices, yet this is not reflected in the articles governing price formation for balancing energy and imbalance pricing. The absence of explicit authorisation generates regulatory uncertainty.

3. The use of specific balancing products is not limited in duration and is not subject to mandatory periodic review of their relevance, which risks "freezing" exceptional measures instead of returning to standard approaches.

4. The draft law includes numerous transitional provisions which, often without time limits, effectively alter the legal framework set out in the main body of the law. This primarily concerns the regulation of public service obligations (PSOs) and the regulator's power to impose price caps in the electricity market.

These shortcomings do not negate the positive progress made, yet they require precise editorial improvements to ensure compatibility with European practice, consistency of regulatory signals, and predictability for market participants.

If the identified distortions are not corrected and the “transitional norms” in the temporary provisions are not narrowed or repealed, the risks of constrained competition and distorted price signals will grow. This would slow investment in flexibility, storage, and network digitalisation, and ultimately delay full integration with the EU market. To avoid a gap between the declared harmonisation and continued “manual” regulation – which would undermine partner confidence – it is crucial to ensure that all exceptions (PSOs, price caps, specific products) are narrowly defined in scope, strictly time-limited, and governed by transparent criteria for activation, deactivation, and regular review.

Positive aspects of the draft law

One of the draft law's key achievements is the alignment of the public service obligation (PSO) mechanism with European regulations. The draft embeds a formal logic whereby intervention in price formation is exceptional, temporary, and targeted at protecting vulnerable consumers. A major step forward is **the focus of PSOs solely on individual household consumers.** If PSO beneficiaries are limited to vulnerable households, targeted support will no longer be diluted through collective schemes. This will enhance social protection through better targeting, preserve market incentives, encourage energy efficiency among other consumers, and foster competition among suppliers.

A further positive feature is **the attempt to regulate and gradually confine administrative price caps to emergency situations only.** This approach aligns with the European principle of prioritising market signals and reduces the risk of long-term distortion of competition. However, only clearer drafting can turn this intention into an effective safeguard against excessive regulatory discretion.

Introducing the possibility of setting negative prices on the day-ahead and intraday markets is an important signal of market design maturity. Negative prices accurately reflect surplus generation during certain hours or grid constraints, incentivising energy storage and demand response. In this context, however, the provisions governing the treatment of negative prices in balancing and imbalance pricing must be clarified and synchronised with accounting and taxation procedures for such transactions.

Establishing a legal basis for dynamic-price contracts in the retail market is another major advantage. Such contracts allow households and small businesses to align consumption with actual market prices, reduce costs by shifting load to cheaper hours, and be rewarded for flexibility. This directly supports demand-side management, enhances competition among suppliers through product diversification, and stimulates the roll-out of smart metering – a prerequisite for functional dynamic tariffs.

The proposed **transition to a 15-minute imbalance settlement period** is among the most significant steps towards convergence with European rules. Shortening the imbalance settlement period has the potential to reduce total imbalance volumes and related costs, improve load and generation forecasting accuracy, and create conditions for broader participation of flexibility resources, including energy storage and controllable demand. However, the current version of the draft delegates the determination of the transition date entirely to the regulator, without setting a final deadline, leaving wide scope for discretion.

The alignment of **standard and specific balancing products** with European practice enhances system controllability and interoperability. Standard products enable integration with regional platforms for the exchange of balancing energy and ancillary services, and facilitate cooperation with neighbouring transmission system operators. Specific products, meanwhile, make it possible to address atypical or temporary system needs without undermining the overall balancing logic. The positive effect depends on clearly defined parameters for each product. At this stage of rule-making, it is especially important to refine transparent criteria for temporary deviations from the "standard", specify their duration, and require regular review of their continued necessity, with a return to standard arrangements whenever possible.

The capacity mechanisms envisaged by the draft law can serve as a transitional instrument during the system's reconstruction period and under high uncertainty. A properly designed mechanism can ensure sufficient capacity availability during peak hours and emergencies without distorting price signals. A positive outcome depends on setting clear environmental eligibility criteria and transparent, competitive selection procedures for participation.

Another positive development is **the updated approach to aggregation.** Previous inaccuracies have been corrected and the scope of aggregation expanded, enabling systematic participation of distributed resources – from industrial loads and energy storage facilities to household appliances – in balancing and ancillary services. A clear legal framework for market participants engaged in aggregation will boost competition in the flexibility market, lower entry barriers for small participants, and improve the efficiency of network infrastructure utilisation.

The definition of flexibility services is also a positive step, bringing the legal framework closer to the wider use of distributed generation and demand response in recognition of their system value. This is particularly important for minimising balancing costs and reducing reserve requirements amid a growing share of renewable generation.

The introduction of citizen energy community creates a bridge between the market model and local-level needs. Associations combining citizens, small and medium-sized enterprises, and local authorities for joint generation, storage, consumption, and sale of energy will enhance local energy resilience, reduce network losses, and support distributed generation. However, the draft law currently requires these associations to operate exclusively as non-profit entities – a restriction that narrows viable models and contradicts European norms. Removing this limitation would make the instrument more effective.

Finally, **the development of independent comparison tools for electricity suppliers' offers** will improve transparency and simplify consumer choice. Open access to standardised information on prices, contract terms, ancillary services, and service quality will reduce information asymmetry and could become a key element in the development of a mature retail market.

Inconsistencies with European approaches and potential loopholes

In the current version of the draft law, alongside important steps towards convergence with EU law, a number of provisions remain that expand regulatory discretion, blur the time limits of temporary instruments, and create room for workarounds. Collectively, these issues will increase uncertainty for investors and market participants, restrain competition, and complicate integration with the EU market.

Eight key inconsistencies with European approaches and potential loopholes could have negative consequences for the market and therefore require further revision. The annexes contain a more detailed and broader list of inconsistencies and loopholes, together with proposals for their correction.

1. The state retains the right to intervene in the functioning of the electricity market by influencing electricity prices through price regulation and the imposition of public service obligations (PSOs).

The draft law preserves the state's right to intervene in electricity price formation. However, Directive (EU) 2019/944 explicitly stipulates that suppliers must be free to determine prices, and that intervention is permissible only in exceptional circumstances, on a temporary basis, and solely to protect vulnerable consumers. The Ukrainian draft law, by contrast, allows the Cabinet of Ministers to extend PSOs to all household consumers without a clear time limit. This creates the risk of de facto perpetuation of price regulation, which should remain a short-term social protection tool only.

Such uncertainty undermines competition in the electricity market and discourages investment in new solutions. Without clear time limits and transparent conditions for imposing PSOs, Ukraine risks being left with permanent "manual" regulation, contrary to EU rules. It would therefore be advisable to set a specific maximum duration for such mechanisms and oblige the government to define clear criteria for determining when competition in the retail market is sufficiently effective to justify the withdrawal of regulatory intervention.

Another crucial issue in PSO regulation concerns compensation for entities bearing the costs of such obligations. Throughout the entire history of the PSO mechanism, which guarantees fixed prices for household consumers, no entity that has incurred financial losses as a result of implementing PSOs has ever received compensation. This directly contradicts both Ukrainian

legislation and EU directives. The government continues to overlook this aspect in its regular reviews of the PSO model, leading to distortions in both the financial indicators and commercial strategies of the main PSO contributors. Given their dominant market position, this inevitably affects electricity prices.

2. Uncertainty regarding the duration and other parameters of specific balancing products.

The current version maintains uncertainty regarding the framework for the use of specific balancing products. The text does not specify the duration of deviations from standard products, nor does it define the nature or scope of the regulator's decision authorising such deviations, or its relation to the standard framework. Furthermore, transitional provisions allow the transmission system operator (TSO) to apply specific products even before the regulator's decision is adopted, without setting a deadline for that decision. Collectively, this opens the possibility of prolonged use of non-standard tools without calendar limits or clear rules for returning to standard balancing products, hereby delaying the transition to harmonised European arrangements.

Moreover, the draft law does not require periodic reassessment of the need for such deviations, although European rules explicitly oblige TSOs to review the necessity of specific products at least once every two years, justifying both the deviation itself and its duration. The lack of explicit requirements for periodic review and defined time limits undermines the discipline of returning to the "standard" and increases the risk of temporary measures becoming entrenched as permanent practice.

To align with the EU approach, it is necessary to establish a deadline for the regulator's decision on any deviation, set a maximum validity period for such decisions, and require regular (at least biennial) reviews of the necessity of specific products, including public reporting on results and a plan for returning to standard products.

3. Absence of a clear final date for the transition to the 15-minute imbalance settlement period creates uncertainty.

The lack of a clearly defined deadline for the transition to the 15-minute imbalance settlement period creates scope for delays and uneven market preparation. Under the current version, the regulator, within six months of the law's entry into force, together with the TSO, must assess the implementation timeline, approve its results, and then – within a further six months – set the transition date. However, no external time limit is established, and the decision on the date is entirely dependent on the outcome of the future assessment.

The European framework set out in Regulation (EU) 2017/2195 establishes clear limits: within three years of the Regulation's entry into force, all operators must apply a 15-minute imbalance

settlement period, and any derogations must be accompanied by a regular cost–benefit analysis conducted in coordination with the EU Agency for the Cooperation of Energy Regulators (ACER). The Ukrainian draft law not only lacks a final deadline but also omits any reference to the Agency's role in validating or reviewing the assessment. In practice, this weakens synchronisation with the European implementation schedule and standards. Accordingly, it would be reasonable to set a firm deadline for full transition to the 15-minute imbalance settlement period (for instance, no later than 1 January 2028) and to provide for the Agency's involvement in the methodology and verification of the assessment.

4. The possibility of "long-term" price caps distorts price signals and contradicts the principles of the internal market.

The draft law contains inconsistencies in the provisions on price limits. Article 70.1 declares the absence of minimum and maximum restrictions in all market segments, except for purely technical limits. However, the transitional provisions empower the regulator to impose "temporary" price limits on the day-ahead market (DAM), intraday market (IDM), and balancing market – up to 180 days for upper limits and up to 10 days for lower limits – based on its own methodology, in coordination with the Antimonopoly Committee.

In practice, this design allows prolonged administrative interventions that go beyond technical limits and lack an automatic mechanism for prompt restoration of the previous market conditions. Under EU law, maximum and minimum wholesale prices are generally prohibited, with exceptions limited to harmonised technical limits managed by nominated electricity market operators (NEMOs) through transparent automatic adjustment procedures. This discrepancy introduces regulatory uncertainty and contradicts the fundamental logic of the EU internal market, where price signals must form without long-term administrative constraints.

Extended price limits also weaken competition between bids, particularly under the planned two-session model (the principles and risks of which are detailed in section 7 below). Restrictions in the first, national session could incentivise withholding volumes for the second, "integrated" session, thereby increasing emergency assistance needs and financial losses for the system operator. Ultimately, instead of alignment with EU trading rules and integrated price formation, the market would operate under a prolonged "manual" regime inconsistent with the principles of the EU single market.

5. The definition of a "citizen energy community" is not aligned within the current draft law of Ukraine.

The definition of a "citizen energy community" generally aligns with Directive (EU) 2019/944. It reflects the principles of voluntary and open participation and emphasises the primacy of social, environmental, or economic benefits for members or local communities over profit. Permitted activities include generation (including from renewable sources), distribution, supply, energy

storage, aggregation, energy efficiency, and charging infrastructure. This logic corresponds to recital 44 of the Directive, which allows Member States to determine any legal form – from associations and cooperatives to non-profits or even small and medium-sized enterprises – provided other conditions are met.

However, Article 58.2 introduces an additional rigid requirement: a citizen energy community must be non-profit. This narrows the range of permissible models, effectively excluding SMEs and some cooperative structures that reinvest profits for collective benefit but are not formally "non-profit". The result is an internal inconsistency between Article 1 (aligned with Directive 2019/944) and Article 58.2 (which introduces restrictions not provided for under EU law and inconsistent with the practice of the Member States).

To eliminate this conflict and avoid hindering the development of citizen energy communities, Article 58.2 should be brought into line with Article 1 and the Directive.

6. Articles governing the balancing market and imbalance settlement should state explicitly that prices can be negative.

Although the draft law mentions negative prices at the definitional level, it does not sufficiently reflect this in the operational provisions governing the balancing market and imbalance settlement. The text states that imbalance prices should reflect real-time electricity value, and European balancing rules explicitly provide that imbalance prices can be positive, zero, or negative. However, this is not clearly reflected in the articles defining price formation in the balancing market and the imbalance settlement mechanism. This creates potential ambiguity in calculations and inconsistent interpretation across market segments.

To resolve this gap, the relevant articles on the balancing market and imbalances should explicitly include the possibility of negative prices. Such mirroring provisions would eliminate regulatory uncertainty, ensure compatibility with Regulation (EU) 2017/2195, and reduce the risk of discrepancies in settlement practices.

7. The two-session model for the functioning of the electricity market is not a violation but could become a source of issues and distortions.

The two-session configuration of the day-ahead market envisages a first session operating within Ukraine's trading zone under national rules, and a second session within the coupled market administered by the nominated operator. The national session closes no later than one hour before the integrated session ends, effectively creating two distinct time and procedural frames within a single operational day. Even if compliant with baseline requirements, such a setup adds complexity and increases the risk of arbitrage between sessions, as differences in rules, timing, and price limits may encourage volume shifting and divergence in price signals across segments.

To mitigate these risks, the temporary nature of the two-session model should be explicitly stated in the transitional provisions, with a clear deadline for preparing and implementing the move to a single-session structure.

It is also essential, while this model remains in operation, to strictly limit the possibility of introducing administrative price limits or mandatory purchase volumes within either session, by defining exceptional conditions for their application and a limited period of validity. This would reduce opportunities for regulatory distortions between the “national” and “integrated” sessions and curb potential market manipulation.

8. Potential conflict of interest of the Market Operator in defining the rules governing the coupled market.

The current draft establishes a configuration in which the Market Operator simultaneously develops the rules for national segments (the day-ahead and intraday markets) and gains influence over the rules of the coupled market. Specifically, Article 2 stipulates that the rules of the DAM and IDM are developed and administered by the Market Operator and approved by the regulator, whereas the rules for trading organised by the Nominated Electricity Market Operator (NEMO) are to be developed and approved by the NEMO itself, in coordination with the regulator. However, the final and transitional provisions designate the current Market Operator as the temporary NEMO until 1 April 2027.

Under the two-session model, this means that the same entity, while designing national rules, also exerts institutional influence over the regulatory framework of the “external” session.

An additional factor is the transitional regime until 1 April 2027: the draft law assigns market coupling responsibilities to the current Market Operator and the TSO, while allowing the Market Operator to combine its role with that of a temporary NEMO. Without a clear description of how this dual role will be organised, how responsibilities, technology, and data will be transferred to the future NEMO, the arrangement creates regulatory uncertainty and a direct risk of self-regulation where rules for the integrated session could be designed in favour of the current administrator. This would complicate competition and hinder entry for alternative NEMO candidates.

Annexes

Annex I. Inconsistencies between Draft Law No. 12087-d and EU legislation and practice

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
1. The state retains the right to intervene in the functioning of the electricity market by influencing electricity prices through price regulation and the imposition of public service obligations (PSOs).		
Article 62 8. The Cabinet of Ministers of Ukraine shall have the right to impose public service obligations concerning the supply of electricity at fixed prices to vulnerable consumers, provided that the following conditions are met (in addition to other requirements set out in this Article, except paragraph 9): 1) the public service obligations shall pursue a general economic interest and not go beyond what is necessary to achieve that interest; 2) the public service obligations shall be clearly defined, transparent, non-discriminatory and verifiable; 3) equal access shall be guaranteed for electricity undertakings from EU Member States and Energy Community Contracting Parties to consumers in accordance with Article 8(5) of this Law; **4) The duration of public service o bligations (PSOs) must be limited in time** and proportionate to the need to protect vulnerable consumers. PSOs must not impose additional costs on market participants in a discriminatory manner. If the Cabinet of Ministers of Ukraine imposes	**Electricity Directive (EU) 2019/944 (recast)** Article 5. Market-based supply prices **1. Suppliers shall be free to determine the price** at which they supply electricity to customers. Member States shall take appropriate actions to ensure effective competition between suppliers. 2. Member States shall ensure the protection of energy poor and vulnerable household customers pursuant to Articles 28 and 29 by social policy or by other means than public interventions in the price setting for the supply of electricity. 3. By way of **derogation** from paragraphs 1 and 2, Member States may apply public interventions in the price setting for the supply of electricity to **energy poor or vulnerable household customers.** Such public interventions shall be subject to the conditions set out in paragraphs 4 and 5. 4. Public interventions in the price setting for the supply of electricity shall: a) pursue a general economic interest and not go beyond what is necessary to achieve that general economic interest; b) be clearly defined, transparent, non-discriminatory and verifiable; c) guarantee equal access for Union electricity undertakings to customers; d) be limited in time and proportionate as regards their beneficiaries;	Directive 2019/944 (Article 5) clearly establishes that suppliers must be free to determine the price at which they supply electricity, and that price interventions are allowed only as exceptional *(derogation)* and temporary *(limited in time)* measures, applied exclusively *to energy-poor or vulnerable household customers.* However, paragraph 9 of Article 62 of the draft law allows the Cabinet of Ministers of Ukraine to impose PSOs covering the supply of electricity at fixed prices for all household customers, in addition to those defined as vulnerable, without a clearly specified time limit (until "effective competition between electricity suppliers and the determination of prices on the retail electricity market" is achieved). Moreover, paragraph 8 of Article 62, which regulates the conditions for imposing PSOs on vulnerable consumers, although it mentions that such obligations must be "limited in time", does not specify what the maximum duration should be. This creates uncertainty about the time limits and leaves significant room for discretion. Paragraph 3.2 of the Final and Transitional Provisions provides that existing legal and regulatory acts shall be brought into conformity with paragraphs 8 and 9 of Article 62 no earlier than after the cancellation of martial law. Paragraph 5.3 grants the Regulator nine months after the cancellation (or termination) of martial law to analyse the PSO mechanism and submit proposals to the Cabinet of Ministers of Ukraine on revising or cancelling PSOs. Taken together, these provisions undermine the incentives to promptly initiate the process of cancelling or time-limiting PSOs on the electricity market.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
PSOs on the basis of this paragraph, the National Energy and Climate Plan must include, as a mandatory element, a target for reducing the level of energy poverty, as well as policies and measures aimed at tackling energy poverty. These may include social policy measures and other relevant actions, irrespective of the number of consumers currently affected by energy poverty. 9. **Until effective competition** between electricity suppliers and price determination on the retail electricity market on purely market terms is achieved, the Cabinet of Ministers of Ukraine shall have the right to impose PSOs concerning the supply of electricity to household consumers at regulated prices (except for those already covered by PSOs under paragraph 8 of this Article). I. Final and Transitional Provisions 3.2. **Until 1 January 2027,** but no earlier than after the termination of martial law, existing legal and regulatory acts shall be brought into conformity with paragraphs 8 and 9 of Article 62 of the Law of Ukraine "On Electricity Market". 5. The National Commission for State Regulation of Energy and Public Utilities (the Regulator): 5.3. Within nine months after the cancellation (termination) of martial law, the Regulator, following consultations with the Energy Community Secretariat, shall carry out an analysis of all PSOs imposed on market participants to ensure public interest objectives on the electricity market pursuant to the Law of	(e) not result in additional costs for market participants in a discriminatory way.	The draft law therefore "locks in": (1) a vaguely time-limited possibility of price regulation; (2) broad, non-targeted price regulation for all, rather than only to vulnerable consumers; and (3) does not encourage even a gradual phase-out of such regulation before the end of martial law. **Proposal No. 1**. Amend paragraphs 8 and/or 9 of Article 62, or add a new paragraph to the Final and Transitional Provisions, to establish or explicitly limit the possible duration of PSOs. **Proposal No. 2.** Require the Cabinet of Ministers of Ukraine, with the support of the EU Agency for the Cooperation of Energy Regulators (ACER), to develop clear conditions under which PSOs could be imposed on all household consumers. In particular, define criteria for identifying the point at which "effective competition" between electricity suppliers has been achieved. **Proposal No. 3.** Require the Regulator, with the support of ACER and/ or in consultation with the Energy Community Secretariat, to conduct, based on jointly developed and clearly defined indicators, a regular (e.g. semi-annual) analysis of all PSOs imposed on market participants in the electricity market to ensure public interest objectives (not limited to those under the Law of Ukraine "On Electricity Market"). If the Regulator is not ready to submit proposals to the Cabinet of Ministers of Ukraine regarding the revision or cancellation of PSOs, it shall prepare well-reasoned justifications and submit them to ACER and/ or the Energy Community Secretariat, explaining the reasons for the inability to revise or cancel PSOs.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
of Ukraine "On Electricity Market". Based on this analysis, the Regulator shall submit proposals to the Cabinet of Ministers of Ukraine regarding their revision or cancellation.		
2. Retaining the possibility of delaying the supplier switching period in case of non-compliance with technical requirements		
Article 59. Change of electricity supplier or market participant engaged in aggregation 2. In cases where a consumer has an installed smart meter or where the actual readings of the consumer's metering device(s) are recorded by an automated commercial metering system synchronised with the central information and communication system of the transmission system operator, the change of electricity supplier or market participant engaged in aggregation initiated by the consumer shall take **no longer than one day,** in accordance with the rules of the retail market. If the date of the supplier and/or market participant engaged in aggregation change initiated by the consumer falls on a weekend, public holiday or other non-working day established by law, the last day of such a change shall be deemed to be the next working day. In other cases, the technical process of switching an electricity supplier or market participant engaged in aggregation at the consumer's initiative shall be completed within **no more than three weeks** from the date of the consumer's notification of the intention to switch. Under the simplified procedure, the process shall be completed within **no more than three calendar days**, provided that the	**Electricity Directive (EU) 2019/944 (recast)** Article 12 (Right to switch and rules on switching-related fees) 1. Switching supplier or market participant engaged in aggregation shall be carried out within the shortest possible time. Member States shall ensure that a customer wishing to switch suppliers or market participants engaged in aggregation, while respecting contractual conditions, is entitled to such a switch within a maximum of three weeks from the date of the request. By **no later than 2026,** the technical process of switching suppliers shall take no longer than 24 hours and shall be possible on any working day.	The draft law extends the provision of Directive (EU) 2019/944 by setting a switching period of up to three weeks for consumers without smart meters. This approach may be justified at the current stage, given the low level of smart meter penetration in Ukraine (around 20%). **Proposal.** To stimulate progress in increasing smart meter penetration, it is advisable to include in the Final and Transitional Provisions an obligation for the Cabinet of Ministers of Ukraine and the Regulator to develop and approve an action plan for promoting the installation of automated commercial electricity metering systems (ACEMS) for consumers, with a final deadline for the transition of all consumers to smart metering (differentiated by consumption level). The Final and Transitional Provisions should specify the final date by which all consumers are expected to complete the transition to smart metering, and after which the provision allowing an extended switching period shall cease to apply – thereby ensuring full alignment with Article 12 of Directive (EU) 2019/944. Alternatively, the following provisions could be directly added to the Final and Transitional Provisions (as an example): 13-4. Consumers whose metering devices do not meet the minimum requirements for accuracy class and functionality of metering devices within metering units, as established by the Regulator and effective as of 31 December 2021, shall bring their metering devices into compliance with the minimum requirements for voltage class and functionality of metering devices within metering units used in the design of new construction, modernisation, reconstruction,

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
administrator of commercial metering receives, in accordance with the procedure established by the Regulator, information confirming the consumer's agreement with both the previous and new suppliers (market participants engaged in aggregation) on forecast data for the readings of the consumer's metering device(s) on the switching date.		technical re-equipment or capital repair of electrical installations, as well as for installation and replacement of metering devices, depending on the voltage level and capacity of the commercial metering points established by the Regulator and effective as of 31 December 2021, within the following time limits: – by 31 December 2024 for consumers connected at the third or fourth voltage level; by 31 December 2025 for consumers connected at the second voltage level; – by 31 December 2026 for consumers connected at the first voltage level whose connected active capacity exceeds 150 kW. When bringing their metering devices into compliance in accordance with subparagraph 1 of this point, consumers shall have the right to use metering devices of a higher accuracy class and functionality.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
3. Uncertainty regarding the duration and other parameters of specific balancing products.		
Article 68. Balancing market The requirements for standard balancing products, including for cross-border balancing, shall be defined by pan-European rules. **The requirements for specific balancing products shall be developed by the transmission system operator (TSO) and approved by the Regulator.** **If transactions for the purchase and sale of balancing electricity and the provision of balancing capacity services in the form of standard balancing products cannot fully ensure the operational security of the power system and/or if the technical characteristics of market participants' facilities do not meet the requirements for standard balancing products, the purchase and sale of balancing electricity and the provision of balancing capacity services may be carried out in the form of specific balancing products, provided that the Regulator has adopted a decision granting a derogation from the use of standard balancing products.** The transmission system operator shall prepare a proposal for such a derogation, **specifying measures aimed at minimising the use of specific balancing products,** taking into account economic efficiency, providing evidence that such specific balancing products do not lead to inefficiencies in the balancing market,	**REGULATION (EU) 2017/2195 establishing a guideline on electricity balancing** Article 26. Requirements for specific products 1. Following the approval of the implementation frameworks for the European platforms pursuant to Articles 19, 20 and 21, each TSO may develop a proposal for defining and using specific products for balancing energy and balancing capacity. This proposal shall include at least: (a) a definition of specific products and of the time period in which they will be used; **(b) a demonstration that standard products are not sufficient to ensure operational security and to maintain the system balance efficiently or a demonstration that some balancing resources cannot participate in the balancing market through standard products;** **(c) a description of measures proposed to minimise the use of specific products subject to economic efficiency;** **(d) where applicable, the rules for converting the balancing energy bids from specific products into balancing energy bids from standard products;** **(e) where applicable, the information on the process for the conversion of balancing energy bids from specific products into balancing energy bids from standard products and the information on which common merit order list the conversion will take place;** **(f) a demonstration that the specific products do not create significant inefficiencies and distortions in the balancing market within and outside the scheduling area.**	Regulation (EU) 2017/2195 provides for the implementation of standard balancing products by the transmission system operator (TSO) but also allows the TSO to introduce specific balancing services in cases where standard products are insufficient to ensure system balancing – a logic that broadly aligns with the draft law's approach. However, the draft law lacks clarity on the nature of the Regulator's decision granting a derogation from the use of standard balancing products, in particular, regarding the potential time period in which they will be used and their relationship to standard balancing products. This could slow down the transition to standard balancing products. Furthermore, paragraph 8 of the Final and Transitional Provisions allows the TSO to use specific balancing products before the Regulator has adopted a corresponding decision granting a derogation from the use of standard balancing products, without setting a deadline for such a decision. Assuming that a decision on such a derogation should specify the precise period during which the TSO may procure balancing services that differ from standard balancing products under the market rules, the absence of a clearly defined deadline for the Regulator's decision creates a risk of an indefinite delay in the transition to standard European products. In addition, the current version of the draft law does not contain a provision requiring the TSO to review, at least once every two years, the necessity of using specific products – as explicitly required by paragraph 2 of Article 26 of Regulation (EU) 2017/2195.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
and shall submit this proposal to the Regulator for approval. The purchase and sale of balancing electricity and the provision of balancing capacity services in the form of specific balancing products shall be carried out within the trading zone(s) of Ukraine, without performing cross-border balancing. The requirements for specific balancing products developed by the TSO shall be set out in the market rules and the Transmission System Code. II. Final and Transitional Provisions **8. Until the Regulator adopts a decision granting a derogation from the use of standard balancing products in accordance with paragraph 3 of Article 68 of the Law of Ukraine "On Electricity Market", the transmission system operator shall purchase and sell balancing services, including ancillary services (balancing capacity), that differ from standard balancing products in accordance with the market rules.**		**Proposal No. 1.** Establish a clear deadline for the Regulator to adopt a decision granting a derogation from the use of standard balancing products. **Proposal No. 2.** Set explicit time limits for the validity of the Regulator's decision on derogation from the use of standard balancing products to prevent the "locking in" of the current inefficient balancing model for an indefinite period. **Proposal No. 3.** Require the TSO to review at least once every two years the continued necessity of using specific balancing products.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
4. Absence of a clear final date for the transition to the 15-minute imbalance settlement period creates uncertainty.		
II. Final and Transitional Provisions 5. The National Commission for State Regulation of Energy and Public Utilities (the Regulator): 5.2. **Within six months** from the date of entry into force of this Law, together with the transmission system operator (TSO), shall conduct an assessment of the duration of the implementation of the 15-minute imbalance settlement period and approve its results. **Within six months after the approval of the assessment results**, the Regulator shall decide on the date of transition to the 15-minute imbalance settlement period.	**REGULATION (EU) 2017/2195 establishing a guideline on electricity balancing** Article 53. Imbalance settlement period 1. **By three years after the entry into force of this Regulation, all TSOs shall apply the imbalance settlement period of 15 minutes** in all scheduling areas while ensuring that all boundaries of market time unit shall coincide with boundaries of the imbalance settlement period. 2. The TSOs of a synchronous area may jointly **request an exemption** from the requirement laid down in paragraph 1. 3. Where the relevant regulatory authorities of a synchronous area grant an exemption from the requirement laid down in paragraph 1 upon a joint request of the TSOs in the concerned synchronous area or at their own initiative, **they shall perform, in cooperation with the Agency and at least every three years, a cost-benefit analysis concerning the harmonisation of the imbalance settlement period within and between synchronous areas.**	The transition to a 15-minute imbalance settlement period is a fundamental precondition for integration with EU markets and for the development of flexibility markets. The draft law delegates the decision on the transition date to a future assessment by the Regulator, without setting a clear deadline, which leaves substantial room for discretion. In addition, the draft law does not include a requirement to conduct, at least every three years, a cost–benefit analysis in cooperation with the European Union Agency for the Cooperation of Energy Regulators (ACER) concerning the harmonisation of the imbalance settlement period within and between synchronous areas. Although introducing such a provision might risk formal delays in implementation, cooperation with ACER should still be explicitly stipulated within the assessment process already envisaged in paragraph 5.2 of the Final and Transitional Provisions. **Proposal No. 1**. Amend the Final and Transitional Provisions to establish a clear deadline for the full transition to a 15-minute imbalance settlement period, for example, no later than 1 January 2028, by analogy with the transition to a fifteen-minute active-energy metering period. **Proposal No. 2.** Define the role of the European Union Agency for the Cooperation of Energy Regulators (ACER) in the process of conducting and validating the assessment of the implementation duration of the 15-minute imbalance settlement period.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
5. Unclear priorities in the allocation of congestion income during the transition period.		
II. Final and Transitional Provisions 6. Until the National Commission for State Regulation of Energy and Public Utilities approves the list of pan-European and regional rules under Article 2(2) of the Law of Ukraine "On Electricity Market", and until the relevant legal and regulatory acts of the Regulator are aligned with this Law, the **procedure for allocating revenues from congestion management shall be coordinated by the transmission system operator with the interested system operators of neighbouring states** and approved by the Regulator.	**REGULATION (EU) 2019/943 on the internal market for electricity** Article 19. Congestion income **2. The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:** **(a) guaranteeing the actual availability of the allocated capacity including firmness compensation; or** **(b) maintaining or increasing cross-zonal capacities** through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investments that are relevant to reduce interconnector congestion. **3. Where the priority objectives set out in paragraph 2 have been adequately fulfilled, the revenues may be used as income to be taken into account by the regulatory authorities when approving the methodology for calculating network tariffs or fixing network tariffs, or both.** The residual revenues shall be placed on a separate internal account line until such a time as it can be spent for the purposes set out in paragraph 2.	The Final and Transitional Provisions allowing the TSO to coordinate the allocation procedure for congestion income directly with neighbouring system operators, prior to the adoption of EU-compliant rules, poses certain risks. It creates conditions for non-transparent arrangements and potentially inefficient use of funds that, under EU law (Regulation (EU) 2019/943), must be primarily directed towards ensuring and increasing cross-zonal capacity. **Proposal.** Supplement the Final and Transitional Provisions to require that, until the full implementation of regional rules, any temporary procedure for the allocation of congestion income agreed by the TSO must be based on the core principles of Article 19 of Regulation (EU) 2019/943.
6. The possibility of "long-term" price caps distorts price signals and contradicts the principles of the internal market.		
Article 70.1 Technical bidding limits Minimum and maximum limits on electricity prices shall not apply to bidding and clearing in all timeframes under the internal market coupling, as well as to balancing energy and imbalance prices, except for technical price limits which may be applied in the balancing timeframe and in the case of market coupling	**REGULATION (EU) 2019/943 on the internal market for electricity** Article 10. Technical bidding limits **1. There shall be neither a maximum nor a minimum limit to the wholesale electricity price.** This provision shall	Granting the Regulator the right to set price caps and price floors for a **period of up to 180 days** (under the Final and Transitional Provisions) poses significant risks to market-based price formation, both in light of Article 10 of Regulation (EU) 2019/943 and in the context of the proposed two-session trading model (a national session and an integrated session). In particular, such price caps and floors may lead to artificial suppression or artificial increase of prices during the first (national) session, thereby distorting price signals and

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
in accordance with paragraph two of this Article. II. Final and Transitional Provisions **9. The Regulator shall have the right to set a minimum or maximum price (price floor or price cap) – i.e. temporary minimum or maximum price limits – on the day-ahead, intraday and balancing markets for each trading zone, with appropriate justification** in the event of significant price fluctuations on the day-ahead, intraday or balancing markets. The criteria for significant price fluctuations in these markets shall be determined according to a methodology approved by the Regulator and agreed with the Antimonopoly Committee of Ukraine. The maximum or minimum price (price cap or price floor) shall be established by the Regulator with the approval of the Antimonopoly Committee of Ukraine. The price cap established by the Regulator shall remain in force **for up to 180 days**, unless a shorter duration is specified by the Regulator, while the price floor shall remain in force for **up to 10 days,** unless a shorter duration is specified by the Regulator. The level of these price caps and floors shall influence the formation of the free (market-based) price to the minimum extent possible.	apply, inter alia, to bidding and clearing in all timeframes and shall include balancing energy and imbalance prices, without prejudice to the technical price limits which may be applied in the balancing timeframe and in the day-ahead and intraday timeframes in accordance with paragraph 2. **2. NEMOs may apply harmonised limits on maximum and minimum clearing prices for day-ahead and intraday timeframes.** Those limits shall be sufficiently high so as not to unnecessarily restrict trade, shall be harmonised for the internal market and shall take into account the maximum value of lost load. NEMOs shall implement a transparent mechanism to adjust automatically the technical bidding limits in due time in the event that the set limits are expected to be reached. The adjusted higher limits shall remain applicable until further increases under that mechanism are required. 3. Transmission system operators shall not take any measures for the purpose of changing wholesale prices. **4. Regulatory authorities or, where a Member State has designated another competent authority for that purpose, such designated competent authorities, shall identify policies and measures applied within their territory that could contribute to indirectly restricting wholesale price formation,** including limiting bids relating to the activation of balancing energy, capacity mechanisms, measures by the transmission system operators, measures intended to challenge market outcomes, or to prevent the abuse of dominant positions or inefficiently defined bidding zones. **5. Where a regulatory authority or designated competent authority has identified a policy or measure**	and undermining the fundamental principles of the internal market. Moreover, some market participants could choose to withhold their resources from sale during the first session (subject to price caps) and instead offer them during the second session. As a result, NPC Ukrenergo would be forced to procure emergency assistance and incur unjustified losses. **Proposal No. 1.** Shorten the maximum duration of the price caps and floors established by the Regulator from 180 days to a significantly shorter period (e.g. 10–14 days) to ensure that such measures are used solely as a temporary crisis-response tool, rather than a means of long-term price regulation. **Proposal No. 2.** To gradually reduce the potential for price manipulation, introduce a statutory obligation to align and harmonise the rules governing the first (national) and second (joint) trading sessions within a clearly defined timeframe, to be set out in the Final and Transitional Provisions.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
	which could serve to restrict wholesale price formation it shall take all appropriate actions to eliminate or, if not possible, to mitigate the impact of that policy or measure on bidding behaviour. Member States shall provide a report to the Commission by 5 January 2020 detailing the measures and actions they have taken or intend to take.	
7. The definition of a "citizen energy community" is not aligned within the current draft law.		
Article 1. Definitions 34) citizen energy community – a legal entity established by natural persons and/or small and/or micro enterprises, regardless of their ownership form, and/or local self-government authorities, which have voluntarily united on the basis of membership and open participation to meet common, including economic, environmental, and social interests of their members (participants) and/ or local communities. **Its primary objective is not to generate profit.** Such an entity has the right to engage in aggregation, generation (including from renewable energy sources), distribution, supply, storage, and consumption of electricity, as well as to provide electric charging station services and other related services to its members (participants) in the manner and under the conditions established by this Law and other legal and regulatory acts. Article 58.2. Citizen energy community 1. The activities of a citizen energy community shall be based on voluntary and open	**Electricity Directive (EU) 2019/944 (recast)** (44) Membership of citizen energy communities should be open to all categories of entities. However, the decisionmaking powers within a citizen energy community should be limited to those members or shareholders that are not engaged in large-scale commercial activity and for which the energy sector does not constitute a primary area of economic activity. Citizen energy communities are considered to be a category of cooperation of citizens or local actors that should be subject to recognition and protection under Union law. The provisions on citizen energy communities do not preclude the existence of other citizen initiatives such as those stemming from private law agreements**. It should therefore be possible for Member States to provide that citizen energy communities take any form of entity, for example that of an association, a cooperative, a partnership, a nonprofit organisation or a small or medium-sized enterprise, provided that the entity is entitled to exercise rights and be subject to obligations in its own name.** Article 2. Definitions (11) 'citizen energy community' means a legal entity that:	There is an inconsistency between the definition in Article 1, which corresponds to that in Article 2 of Directive (EU) 2019/944, and Article 58.2, which introduces the non-profit status requirement for citizen energy communities. **Proposal.** Align Article 58.2 with the definition provided in Article 1, following Recital (44) of Directive (EU) 2019/944, which emphasises that citizen energy communities may take various legal forms, including that of enterprises.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
participation of its members (participants). A citizen energy community may be established in accordance with the Law of Ukraine "On Civic Associations" or the Law of Ukraine "On Associations of Co-owners of Multi-apartment Buildings", or as another type of legal entity which, under the legislation governing such a legal form, is a non-profit organisation. According to its founding documents, such an entity may engage in electricity consumption, generation (including from renewable sources), distribution, supply, aggregation, energy storage, energy efficiency services , and/or charging services for storage batteries and electric vehicles or provide other energy services to its members (participants).	(a) is based on voluntary and open participation and is effectively controlled by members or shareholders that are natural persons, local authorities, including municipalities, or small enterprises; (**b) has for its primary purpose to provide environmental, economic or social community benefits to its members or shareholders or to the local areas where it operates rather than to generate financial profits;** (c) may engage in generation, including from renewable sources, distribution, supply, consumption, aggregation, energy storage, energy efficiency services or charging services for electric vehicles or provide other energy services to its members or shareholders;	
8. Unclear environmental requirements for power-generating facilities participating in capacity mechanisms.		
Article 19.1 Capacity mechanisms 3. The rules governing the operation of capacity mechanisms shall be approved by the Regulator and shall include, inter alia: 8) **requirements regarding the maximum permissible CO_2 emissions from power-generating facilities participating in capacity mechanisms, in accordance with Regulation (EU) 2019/943** of 5 June 2019 on the internal electricity market and the standards established by the International Organization for Standardization.	**REGULATION (EU) 2019/943 on the internal market for electricity** Article 22. Design principles for capacity mechanisms Capacity mechanisms shall incorporate the following requirements regarding CO2 emission limits: … (b) from 1 July 2025 at the latest, generation capacity that started commercial production before 4 July 2019 and that **emits more than 550 g of CO2 of fossil fuel origin per kWh of electricity and more than 350 kg CO2 of fossil fuel origin on average per year per installed kWe** shall not be committed or receive payments or commitments for future payments under a capacity mechanism.	However, paragraph 4 of Article 22 of Regulation (EU) 2019/943 clearly prohibits the participation in capacity mechanisms of power-generating facilities which, as of 1 July 2025, exceed emission limits of 550 g CO_2 per kWh and an annual average of more than 350 kg CO_2 per installed kW. **Proposal**. Introduce explicit emission limits in paragraph 3 of Article 19.1, clearly specifying the requirements of Regulation (EU) 2019/943 – namely, 550 g CO_2 per kWh and no more than 350 kg CO_2 per installed kW per year.

Provisions of the draft law	Relevant provisions of the EU acquis	Comments and proposals
9. Articles governing the balancing market and imbalance settlement should state explicitly that prices can be negative.		
1. For the purposes of this Law, the following terms shall have the meanings assigned to them: (83) purchase and sale of electricity under the negative price procedure – purchase and sale of electricity under which the buyer of electricity provides the seller with a service to stimulate electricity consumption in conditions of insufficient demand and excess supply, while simultaneously purchasing the respective volume of electricity from the seller at the lowest price agreed between the parties. Article 68. Balancing market 8. ... Price formation on the balancing market shall be based on the principles set out in the pan-European rules. Article 70. Imbalance settlement 5. The transmission system operator shall settle electricity imbalances with balance-responsible parties in accordance with this Law and the market rules. Imbalance settlement shall mean the conclusion by a balance-responsible party of transactions for the purchase or sale of electricity with the transmission system operator in volumes of electricity imbalances at imbalance prices determined in accordance with the market rules. Imbalance prices shall reflect the real-time value of electricity.	**REGULATION (EU) 2017/2195 establishing a guideline on electricity balancing** Article 55. Imbalance price 1. Each TSO shall set up rules to calculate the imbalance price, which can be positive, zero or negative...	The draft law defines "purchase and sale of electricity **under the negative price procedure".** However, to ensure full compatibility with the European balancing market, it is necessary to directly indicate the possibility of negative prices in the key articles of the draft law and introduce other required legislative amendments. **Proposal No. 1.** Supplement paragraph 8 of Article 68 as follows: "Price formation on the balancing market shall be based on the principles set out in the pan-European rules. **The price of balancing energy can be positive, zero, or negative."** **Proposal No. 2.** Supplement paragraph 5 of Article 70 as follows: "... Imbalance settlement shall mean the conclusion by a balance-responsible party of transactions for the purchase or sale of electricity with the transmission system operator in volumes of electricity imbalances at imbalance prices determined in accordance with the market rules **Imbalance prices can be positive, zero, or negative."** **Proposal No. 3.** Include in the Final and Transitional Provisions a requirement to define further necessary steps beyond the scope of this draft law, for example by introducing a time-limited mandate (e.g. "within six months from the date of entry into force of this Law") obliging the Cabinet of Ministers of Ukraine to develop the necessary amendments to tax and customs legislation to regulate transactions involving the purchase and sale of electricity at negative prices.

Annex II. Additional issues and potential loopholes

Part of the draft law concerned	Comments and proposals
1. The two-session model – while not a breach, represents a potential source of issues and distortions.	
Article 67.1 Single Day-Ahead Coupling and Single Intraday Coupling Trading on the day-ahead market shall take place as follows: 1) The first trading session on the day-ahead market shall be conducted by the market operator within the trading zone(s) of Ukraine in accordance with the day-ahead market rules. The first trading session shall close no later than one hour before the closure of trading within the Single Day-Ahead Coupling (SDAC). 2) The second trading session on the day-ahead market within the Single Day-Ahead Coupling shall be conducted by the nominated operator(s) in accordance with the trading rules of the respective nominated operator.	The two-session market model, under which the first trading session is conducted by the existing market operator within Ukraine and the second session is conducted by the nominated electricity market operator as part of the Single Day-Ahead Coupling (SDAC), is typical and not in itself a breach of rules. However, it may create additional complexity and potential arbitrage issues between the sessions. **Proposal No. 1.** Specify in the Transitional and Final Provisions that this configuration of the electricity market is temporary, and require the competent authorities to develop an action plan for the transition to a single-session model within a clearly defined timeframe. **Proposal No. 2.** If the two-session model is maintained, the possibility of introducing price limits and mandatory purchase volumes in the relevant session should be strictly limited, with clear time limits and exceptional circumstances for such measures.
2. Potential conflict of interest of the Market Operator in defining the rules governing the coupled market.	
Article 2. Legal framework for the functioning of the electricity market The rules for the day-ahead and intraday markets shall be developed and administered by the market operator and approved by the Regulator. The trading rules of the nominated market operator shall be developed and approved by the nominated market operator and agreed with the Regulator. Article 67.1 Single Day-Ahead Coupling and Single Intraday Coupling Trading on the day-ahead market shall take place as follows: 1) The first trading session on the day-ahead market shall be conducted by the market operator within the trading zone(s) of Ukraine under the day-ahead market rules. The first trading session shall close no later than one hour before the closure of trading within the Single Day-Ahead Coupling (SDAC).	In its current version, the draft law grants the Market Operator the authority to develop and approve the trading rules of the nominated electricity market operator (Article 2), while simultaneously designating it as the temporary nominated electricity market operator until 1 April 2027 (Transitional and Final Provisions, paragraph 2). This creates a direct conflict of interest, as the Market Operator may develop and approve rules to its own advantage, potentially limiting competition and hindering the entry of other potential nominated electricity market operators in the future. This new function of developing and approving the trading rules of a nominated electricity market operator would be added to the Market Operator's existing function of developing and administering the day-ahead and intraday market rules (Article 2), which, under the proposed two-session trading model, may also generate conflicts of interest. Furthermore, during the transitional period until 1 April 2027, the implementation of market coupling measures is entrusted to the existing Market Operator and TSO, creating potential uncertainty regarding the division of responsibilities, as well as the transfer of functions, technologies, and data from the current operator to the newly designated nominated

Part of the draft law concerned	Comments and proposals
2) The second trading session on the day-ahead market within the Single Day-Ahead Coupling shall be conducted by the nominated electricity market operator(s) in accordance with the trading rules of the respective nominated market operator. II. Final and Transitional Provisions 2. Temporarily, until 1 April 2027, the implementation of measures necessary for the Single Intraday Coupling (SIDC) and/or Single Day-Ahead Coupling (SDAC) **shall be carried out jointly by the transmission system operator (TSO) and the market operator, which is designated as a nominated electricity market operator (NEMO)** pursuant to Article 51 of the Law of Ukraine "On Electricity Market". The TSO and the nominated electricity market operator shall jointly ensure the implementation of the measures necessary for the single day-ahead and/or intraday market coupling and the establishment of fallback procedures within the coupled markets until 1 April 2027. The TSO, the nominated electricity market operator, as defined in the first subparagraph of this point, and other designated nominated electricity market operators shall, within 18 months from the entry into force of this Law, but no later than 31 December 2026, take the measures required to conclude a multilateral cooperation agreement between the nominated electricity market operators and the TSO. From 1 April 2027, the implementation of measures necessary for the single day-ahead and/or intraday market coupling shall be carried out in accordance with the legislation of Ukraine.	electricity market operator in the future. Although the Market Operator may perform both roles before and after 1 April 2027, the draft law does not specify how and in what organisational form such a combination of functions is permissible. **Proposal No. 1.** To avoid conflicts of interest, the Transitional and Final Provisions should specify that until 1 April 2027, the Market Operator shall not be involved in developing the rules governing the coupled market. These functions should instead be assigned to the Regulator, the Ministry of Energy of Ukraine, and/or NPC Ukrenergo. The Market Operator may be involved in this process only after that date, once the basic rules are established and other participants can apply for designation as nominated electricity market operators. **Proposal No. 2.** A clear framework should be established defining how and in what organisational form the Market Operator may combine the roles of market operator and nominated electricity market operator, and which body shall perform supervisory oversight of such dual functions to prevent potential abuses, for example, the European Union Agency for the Cooperation of Energy Regulators (ACER).
3. Potential intentional narrowing of scope: "direct cross-subsidisation" and "cross-subsidisation"	
Article 62. Public service obligations to ensure general public interests in the functioning of the electricity market … The imposition of such public service obligations shall meet the following conditions: … (5) to prevent **direct cross-subsidisation** between consumers supplied with electricity at market-based prices and household consumers supplied under public service obligations.	The mentioned provision may allow the functioning of an indirect cross-subsidisation scheme (a reservation concerning the use of the term "direct" in the expression "direct cross-subsidisation"). **Proposal.** Amend point 5 of Article 62 to read simply as "to prevent cross-subsidisation".

Part of the draft law concerned	Comments and proposals
4. The current wording of the requirements for the strategic reserve effectively excludes the potential participation of a significant share of energy storage facilities (ESF) as part of the strategic reserve.	
Article 19.1 Capacity mechanisms 9. The strategic reserve, as a capacity mechanism, shall comply with the following requirements: 3) Electricity released during the activation of the strategic reserve shall be allocated to balance-responsible parties through the imbalance settlement mechanism, in accordance with market rules. The volume of electricity released by a market participant during the activation of the strategic reserve shall not affect the imbalance of that participant or the imbalance of the balance responsible party group to which it belongs. 4) Resources included in the strategic reserve **shall not receive remuneration in the wholesale market segments,** including the balancing market, except for the payments made in accordance with point 3 of this paragraph. 5) During the term of the contract under the capacity mechanism, the capacity provider **shall not use the resources of the strategic reserve for participation in electricity** market activities other than within the capacity mechanism itself.	The requirements for the strategic reserve (Article 19.1) stipulate that reserve resources must not receive remuneration in wholesale market segments, which is consistent with EU legislation. However, for the vast majority of energy storage facilities, this effectively means exclusion from this mechanism, as participation under such conditions is unlikely to be economically viable. Instead, the draft law should provide for a situation where energy storage facilities reserve only part of their capacity to participate in the strategic reserve mechanism, while using the remaining capacity for market participation. This would make the involvement of energy storage facilities in capacity mechanisms more economically attractive. **Proposal**. Supplement Article 19.1 with a provision allowing energy storage facilities to allocate only part of their capacity to the strategic reserve, with clear delineation of the volumes and conditions for providing such capacity. This would enable more efficient use of storage system potential.
5. Outdated requirements for the data retention period necessary for the verification of dispatching actions and bidding behaviour in the coupled market.	
Article 30. Rights and obligations of producers 5. Producers who own and/or operate at least one power-generating facility with an installed capacity of 200 MW or more, or a group of power-generating facilities with a combined installed capacity of 400 MW or more, shall retain for a period of five years all hourly data for each power plant necessary to verify dispatching decisions and bidding behaviour in the single day-ahead market coupling, single intraday coupling, day-ahead market, intraday market, balancing market, ancillary services market, commodity exchanges, electronic auctions, capacity allocation auctions and over-the-counter markets (OTC markets).	Article 30 requires producers to store data necessary for verifying dispatching decisions and bidding behaviour in the coupled market in an hourly format. This approach does not align with European practices or the emerging needs of the flexibility market, which is based on a 15-minute imbalance settlement period. **Proposal**. Amend Article 30 to require data to be stored in 15-minute intervals (from the transition to 15-minute metering intervals, and hourly intervals until that time). The Final and Transitional Provisions should provide for a transition period during which, until technical readiness is achieved, producers may continue to retain data in an hourly format.

Part of the draft law concerned	Comments and proposals
The information to be retained for each power plant and each hour shall include, in particular, data on available generation capacity and mandatory reserves, including the allocation of such reserves per plant at the time of bid submission, as well as data on actual electricity generation. Producers shall provide the relevant data upon request by the Regulator, the Antimonopoly Committee of Ukraine, and the Energy Community Regulatory Board.	
6. Uncertainty regarding the Regulator's role in the functioning of comparison tools	
Article 6. State regulation of the electricity market 3. The Regulator's powers in the electricity market include: **(10) monitoring the operation of comparison tools for electricity supplier offers;** 4. The Regulator shall have the right: **(13) to establish and ensure the functioning of a comparison tool for electricity supplier offers.** Article 57. Comparison tools for electricity supplier offers **Ensuring the functioning of comparison tools may be carried out by any business entities,** regardless of their form of ownership or legal form, as well as by public authorities and institutions. **The Regulator shall issue trust marks to comparison tools** that comply with the requirements established in paragraph 4 of this Article and shall monitor their compliance with the trust marks granted to them, in accordance with the procedure established by the Regulator.	Article 57.1 of the draft law introduces an important and progressive provision concerning the creation of comparison tools for electricity supplier offers. The draft law provides that the functioning of such comparison tools "may be carried out by any business entities", while the Regulator "is entitled to establish and ensure the functioning of a comparison tool". Although this could encourage competition, it also creates legal uncertainty and fails to guarantee the protection of consumer interests. The market may fail to produce any high-quality and independent comparison tools, leaving consumers without access to objective information. Moreover, paragraph 6 of this Article stipulates that electricity suppliers must provide the Regulator with detailed information on their electricity supply offers if the Regulator has established and ensures the functioning of a comparison tool. This provision either excludes or does not specify the right of other business entities to access such information in order to create their own comparison tools. **Proposal No. 1.** Clearly state in Article 6 that the Regulator is obliged to establish and ensure the functioning of at least one comparison tool, while also encouraging the emergence of alternative tools. **Proposal No. 2.** Add to the Final and Transitional Provisions a paragraph obliging the Regulator to develop and launch its own comparison tool within a defined period (for example, within 12 months from the date of entry into force of this Law). **Proposal No. 3.** Supplement paragraph 6 of Article 57.1 with provisions ensuring that other business entities intending to create or already operating comparison tools have non-discriminatory access to information on electricity supply offers – either directly from suppliers or through the Regulator.

Part of the draft law concerned	Comments and proposals
Submission of an application for obtaining a trust mark shall be carried out on a voluntary and non-discriminatory basis. A trust mark shall not be issued to comparison tools operated by the Regulator, other public authorities and/or state institutions, even if they meet all the requirements for comparison tools set out in paragraph 4 of this Article. 4. Comparison tools shall meet the following requirements: 1. be independent of market participants and ensure equal representation of information on market participants in search results; 2. disclose information on their owners, the persons responsible for ensuring the functioning of the comparison tools, and the persons exercising control over them, as well as information on the financing of such tools; 3. set out clear and objective criteria for comparing electricity supplier offers, including services provided on the electricity market; 4. establish that the information presented through comparison tools is clear and comprehensible; 5. provide accurate and up-to-date information and indicate the date of the most recent update; 6. be accessible to persons with disabilities, including by being easy to understand and use, accessible and functional; 7. provide an effective procedure for reporting inaccurate information; 8. use only those personal data that are necessary for comparing electricity supplier offers; 9. be free of charge for consumers defined in the third subparagraph of paragraph 1 of this Article. 5. The Regulator shall publish on its official website links to comparison tools that have been granted a trust mark. Business entities that have established and ensure the functioning of comparison tools that have been granted the trust mark shall indicate on their websites that the trust mark has been issued by the Regulator. 6. Where the Regulator has established and ensures the functioning of a comparison tool, **electricity suppliers shall be obliged to provide the Regulator with detailed information** on electricity supply offers,	

Part of the draft law concerned	Comments and proposals
including offers under dynamic price contracts, in the manner and within the time limits set by the Regulator.	
7. Risk of concentrating the powers to define vulnerable consumers within the Cabinet of Ministers of Ukraine	
Article 61. Protection of vulnerable consumers and energy poverty The Cabinet of Ministers of Ukraine may provide for the definition of categories of vulnerable consumers taking into account energy poverty, including low income levels, a significant share of energy-related expenditure in household income, and low energy efficiency.	Granting the Cabinet of Ministers of Ukraine, as the body responsible for imposing public service obligations, exclusive powers to define categories of vulnerable consumers carries a significant risk that such criteria may be overly broad, vague or politically driven (tailored to a specific resolution). This could preserve hidden cross-subsidisation under the guise of protecting "vulnerable" groups, which contradicts the principles of European energy legislation requiring clear, transparent and targeted support mechanisms. **Proposal**. Supplement Article 61 or the Final and Transitional Provisions by introducing a requirement obliging the Cabinet of Ministers of Ukraine to develop a procedure and methodology for defining vulnerable consumers and, in doing so, to conduct mandatory consultations with the Energy Community Secretariat and the EU Agency for the Cooperation of Energy Regulators. This would ensure that the methodology aligns with best European practices, enables the development of objective and measurable criteria (such as income level, share of expenditure on energy services, household energy efficiency) and prevents political manipulation of this instrument, for example to unlawfully prolong the duration of PSOs.
8. Need to specify the Regulator's obligations when identifying actions that restrict market-based price formation	
Article 70.1 Technical price limits 6. If the Regulator identifies a policy or actions (measures) that may restrict the formation of electricity prices, it must take all appropriate measures to eliminate, or if impossible, mitigate the impact of such policy or actions (measures) on price formation. The Regulator shall submit a report to the Energy Community Secretariat providing a detailed description of the measures that have been or will be taken to prevent restrictions on market-based electricity prices.	Article 70.1(6) requires the Regulator to "take all appropriate measures" if it identifies actions restricting market-based price formation. However, this wording is excessively broad and declarative, and does not establish a clear sequence of actions for the Regulator. It also does not guarantee an effective response to market abuses. The obligation to report to the Energy Community Secretariat describing the measures taken or to be taken increases transparency but does not specify deadlines or reporting formats and does not necessarily demonstrate the effectiveness of the Regulator's actions. **Proposal**. Specify Article 70.1(6) or supplement the Final and Transitional Provisions with a provision defining a list of concrete obligations that the Regulator must take if it identifies policies or measures that may restrict electricity price formation. For example: notifying the Antimonopoly Committee of Ukraine of identified facts, initiating investigations within its powers, publishing findings, etc. The Regulator should also be required to notify the EU Agency for the Cooperation of Energy Regulators of identified violations and the measures taken.

Part of the draft law concerned	Comments and proposals
10. Reference to an invalid definition of "energy ombudsman" and to a non-existent law on an energy ombudsman	
Article 76. Procedure for handling complaints and resolving disputes 5. Complaints by household and small non-household consumers regarding actions or omissions of electricity suppliers and distribution system operators, and the resolution of disputes between them, shall also be handled by **the energy ombudsman.** The Regulator shall cooperate with the energy ombudsman in the dispute resolution process, in particular through information exchange and consultations. The legal status, procedure, operating conditions of the energy ombudsman **shall be defined by law.**	The draft law refers to the institution of "energy ombudsman", whose legal status is to be defined by a separate law. No such law has been adopted to date, and there is no guarantee that it will be adopted in the proposed form or that the institution will bear this specific name. This creates a risk of legal inconsistency, as the draft law refers to an entity that currently does not exist. **Proposal**. Replace the specific term "energy ombudsman" with a more general functional definition not dependent on the name of the entity to be defined in a future law. Proposed wording: "Complaints by household and small non-household consumers ...shall also be handled by the energy ombudsman or another authorised body responsible for out-of-court dispute resolution in the energy and public utilities sector, whose legal status, procedure, operating conditions shall be defined by law". This preserves the substance of the consumer protection mechanism while ensuring flexibility and resilience in the event of future legislative changes.
11. Status of the Market Operator as a potential derivatives market operator	
Article 1. Definitions 1. For the purposes of this Law, the following terms shall have the meanings assigned to them: 108) market operator – a legal entity ensuring the functioning of the day-ahead and intraday markets and organising the purchase and sale of electricity on these markets, and which is also authorised to organise and conduct electronic auctions for the purchase and sale of **electricity under bilateral contracts, subject to obtaining the relevant licences issued by the National Securities and Stock Market Commission.**	The draft law retains the Market Operator's right to conduct auctions for the purchase and sale of electricity under bilateral contracts, subject to obtaining the relevant licences issued by the National Securities and Stock Market Commission. However, the Market Operator has not exercised this right, resulting in de facto monopolisation of this segment by the Ukrainian Energy Exchange (UEEX). The lack of competition on this platform constrains market development and limits participants' opportunities to hedge risks. **Proposal**. Add to the Regulator's powers (Article 6) an obligation to carry out regular monitoring (e.g., every two years) of the level of competition on the organised bilateral contract market. If competition is found to be insufficient, the Regulator shall take measures to stimulate it. Additionally, the Cabinet of Ministers of Ukraine should require the Ministry of Energy, as the body responsible for managing the Market Operator, to ensure that it obtains a licence to conduct exchange activities and acquires the right to organise and conduct electronic auctions for the purchase and sale of electricity under bilateral contracts.
12. Publication of the resource adequacy assessment report under martial law	
Article 19. Balance between electricity supply and demand 5. The transmission system operator shall **publish the resource adequacy assessment report** and submit it to the Energy Community Secretariat.	The requirement to fully publish the resource adequacy assessment report is consistent with European transparency principles, but it creates significant security risks under martial law.

Part of the draft law concerned	Comments and proposals
6. The resource adequacy assessment report shall be approved by the Regulator and **published** on the websites of the Regulator and the transmission system operator.	Detailed information on generating capacity, its availability and network constraints is sensitive and may be exploited by the enemy. **Proposal**. Introduce a special publication regime for the duration of martial law and for a defined period after its termination (e.g., six months), allowing the report not to be published or to be published in a special public version with aggregated data only.