THE POTENTIAL OF GOVERNMENTAL AND MINISTERIAL NORMATIVE LEGAL ACTS TO ENSURE THE ENERGY SECURITY OF UKRAINE

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Summary

The article analyzes the received sub-regulatory legal acts in the sphere of energy. We consider the definition of the basic concepts in the field of energy „energy efficiency", „energy saving", „energy capacity". The Energy Strategy of Ukraine for the period up to 2030, draw conclusions about the pretentiousness of many of its provisions, the lack of a unified approach to the planning parameters, vagueness in the indication of the expected results is analyzed. The other energy strategy and the programs are analyzed. It is indicated for the creation and activities of the relevant bodies of the executive power – the State Committee of Ukraine for Energy Conservation, the State Agency for Energy Efficiency and Energy Saving. The most effective energy-saving measures for the implementation of the state policy on energy efficiency and conservation are identified. The characteristic of an energy audit, which is rated as the most effective tool through which the search for ways to reduce energy consumption is carried out.

Key words: energy security, regulations, energy efficiency, energy conservation, energy.

Аннотация

В статье осуществлен анализ принятых подзаконных нормативно-правовых актов в сфере энергетики. Рассматривается определение основных понятий в сфере энергетики: «энергоэффективность», «энергосбережение», «энергоёмкость». Анализируется Энергетическая стратегия Украины на период до 2030 года, сделаны выводы о декларативности многих ее положений, отсутствии единого подхода к планированию показателей, неконкретности в указании на ожидаемые результаты. Проанализированы другие энергетические стратегии и программы. Указывается на создание и деятельность соответствующих органов государственной исполнительной власти: Государственного Комитета Украины по энергосбережению, Государственного агентства по энергоэффективности и энергосбережению. Определены наиболее действенные энергосберегающие мероприятия по внедрению государственной политики по энергоэффективности и энергосбережению. Осуществлена характеристика энергетического аудита, который оценивается как наиболее эффективный инструмент и с помощью которого осуществляется поиск путей снижения энергоемкости.

Ключевые слова: энергетическая безопасность, нормативно-правовые акты, энергоэффективность, энергосбережение, энергоемкость.

Problem setting. One of the directions of energy security Ukraine is to increase energy efficiency and conservation of energy resources while reducing energy intensity of gross domestic product. In conditions of failure fossil fuels in our country, the need to import it and diversification, implementation of energy efficient energy policy is extremely important and a priority. The research of implementation its performance in this area requires an analysis and evaluation of strategic energy programs adopted by government decisions of the executive authorities for their optimal goals and objectives. It should be noted the necessity of meaningful study of legal documents, which contain significant informative material about the state of the energy sector, fix the shortcomings of legislation, contribute to focus on priority areas of the energy sector.

State of study. The mentioned subject is covered by politicians, practitioners, scientists, especially economists (V. Geyets, V. Grigorovsky, H. Dzyana, W. Dzhedzhula, S. Ermilov, M. Kovalko, M. Kulik, B. Lir, A. Prakhovnik, T. Serdyuk, O. Sukhodolya, V. Tonkal A. Shidlovskii, O. Tsapko-Piddubna, Yu. Yaschenko and others). They carried out an analysis of the implementation of energy efficiency and energy saving, covers real achievements, criticized shortcomings.

The Aim. Much less attention is given to research legal support energy sector, strategic energy efficiency programs, analyzing government policy decisions of specially created state authorities in this area, which led to the consideration of these aspects of the state energy policy.

The main material. In order to optimize review of the said issues, we consider the definition of „energy efficiency", „energy saving", „energy intensity". On the term „energy efficiency" we should note the following, this term legislation does not contain, it provides only some of the draft Law of Ukraine „On energy efficiency". In particular, the draft law of 23 July 2009 №5016 contains the following definition: energy efficiency, it is – organizational, scientific, practical, information activities aimed at the efficient use of energy resources [1].

Doctrinal literature provides different, but generally similar in determining the value of energy efficiency. It is „... a system of means and methods used together or separately, the result of the implementation/application of which is to achieve the optimum level of power consumption, the balance between energy consumption and production capacity achieved" [2]. Energy efficiency is defined as „... the rational use of energy resources, achieving economically expedient efficiency of existing energy resources in the real level of engineering and technology and to comply with the environment" [3]. Also energy efficiency is explained as a quality economy, providing rational and efficient use fuel and energy resources (FER) according to the current level of social development, engineering and technology, it is the dominant type of outlook, priorities of the country [4].

In a general sense the energy efficiency is understood as efficient (rational) use of energy FER, ie using less energy for

energy supply technology. Ukraine energy level is quite low, the country specific energy higher than in the UK in 4,8 times, Turkey 3.8 times, 3.0 times in Poland, Belarus 1.8 times, Russia 1.3 times [5, p. 1].

As for the definition of energy supply we note that it is contained in the Law of Ukraine „On energy saving" of 01.07.1994 number 74/94-BP and explains as activities (organizational, scientific, practical, information), which is aimed at the rational use and economical consumption of primary and processed energy and natural energy resources in the national economy and is implemented using technical, economic and legal methods [6]. Energy efficiency and energy saving are closely interlinked, energy saving is a key factor to improve efficiency of FER; the concept of energy efficiency is broader and includes not only areas of immediate energy savings, but also those that lead to lower consumption. [7, p. 33]. „... The concept of „energy efficiency" reflects the qualitative characteristics of the national economy and the concept of „energy saving" – the efficiency of actions to reduce the quantitative parameters of interaction (energy) system elements representing the national economy. Policy of energy saving is aimed primarily to perform quantitative tasks saving energy resources. Energy efficiency policy is aimed to achieving the quality of the economy, which is reflected in energy efficiency and in the initial stages requires the implementation of energy saving potential" [4].

Energy intensity is a recognized indicator of energy efficiency, the lower the energy intensity, the higher the energy efficiency. Under the energy intensity we understand the value of consumption / consumption per unit of GDP. It should be noted that the concept of energy intensity of GDP is not identical to the concept of energy enterprises, because despite energy costs for basic operations directly related to the production of products, which then counted in determining GDP, energy consumption and maintenance activities include management of the enterprise and even in simple production. The lowering of energy intensity of the company provides the improvement its technological aspect, the implementation saving technologies [8, p. 129]. Ukraine has an extremely high energy economy, it is three times higher than in developed countries, that per unit of production Ukrainian company lost three times as much energy and energy than you would lose [9]. The said predetermined the key task of public policy to reduce power consumption.

The completing quests for improving energy saving and energy intensity, the reducing energy intensity are achieved in the implementation of relevant programs in the energy sector. Ukraine has developed several national energy programs and projects. In 1996 the Energy Program of Ukraine till 2010 was adopted, in 2006 the Energy Strategy of Ukraine till 2030 was adopted, in 2013 an updated draft energy strategy for the period until 2030 was published. It states that a high level energy intensity in Ukraine is caused by an extremely high level of depreciation of technical equipment in all sectors of the national economy; low level of implementation of energy efficient technologies and equipment; tariffs and energy prices production costs; economic risks associated with natural monopolies; energy consumption in the absence of meters; high energy losses during transmission and consumption; the condition of payment of mutual debts in the wholesale electricity market and other energy markets [10 p. 119–120]. Particularly high level energy intensity remains in the metallurgical, chemical, coal, cement industry, mechanical engineering. In comparison with European figures the annual loss of the national economy from inefficient energy consumption is 15–17 billion US $ [11, p. 215].

The analysis of the contents of these strategic documents indicates their declarative character, the absence of unified approach to planning indicators vagueness in the indication of the expected results on them rarely stated – to increase, reduce, optimize and create. In our opinion, in this case to determine the efficiency of prescribed tasks will be difficult. Here are the scheduled indicators for reducing energy intensity of GDP. Updated Energy program for the period until 2030 envisages reduction of electricity intensity of GDP by about 40% in 2030 [12, p. 108].

The specified Energy Strategy is keenly criticized by experts for imperfection. In juridical literature it is indicated that this program provides an objective assessment of the state in this area, but has significant shortcomings in the legal regulation of the industry; the suggested strategic priorities have necessary financial and subsoil of institutional, technological, financial and economic development of the fuel and energy complex, program does not set hard and clear course towards energy efficiency and switching to alternative energy sources is not aimed at increasing investment [13, p. 25].

Today the third option the Energy Strategy of Ukraine till 2035 and the project „New Energy Strategy of Ukraine till 2020: security, energy efficiency, competition" are considered. The Energy Strategy of Ukraine till 2035 envisages reduction of energy intensity by 2035 GDP and approaching this indicator to countries with similar climatic, geographic and economic parameters [14, p. 9]. The project „The new energy strategy up to 2020.: safety, energy efficiency competition" plans as a result of the objectives of the strategy to achieve reduction of energy intensity of GDP by 20% [15, p. 8].

The terms of fulfillment programs are subjected to criticism by the experts in the field of energy. It is reasonably observed that build long-term forecasts difficult, „... so that their key indicators are constantly changing depending on many contingencies, both current and in the forecast period. The choice of strategic directions of energy security doesn't lend itself strict formalization and decided by experts, involving models and other tools to evaluate certain aspects of strategy" [16]. Besides, analyzing aforementioned policy documents, the scientists call them internally consistent, close to the main indicators and consider the necessity of their association with the elimination of existing shortcomings and failures.

Among the normative legal acts that contribute to the implementation of state energy policy, we should note the State Targeted economic program on energy efficiency of the production of energy from renewable energy sources and alternative fuels in years 2010–2016. It provides:

- the approaching of energy intensity of gross domestic product Ukraine to the level of developed countries and the European Union standards;

- the enhance the efficient utilization PER and increasing the competitiveness of the national economy, optimizing the energy mix of the state;

- it is defined the task – improving legislation and standards system in the field of energy efficiency renewable energy and alternative fuels) and measures (re-

habilitation of residential buildings, social facilities and building institutions that are fully financed from the state budget);

- it is noted expected results (including quantitative indicators have been established only in relation to: a) the reduction of energy intensity of gross domestic product – by 20 percent compared to 2008; b) the obtain a share of energy from renewable energy sources and alternative fuels in 2015 by at least 10 percent; c) the reduction of production costs by 10 percent, non-production energy losses – 25 percent was comparable to the adoption of the Programme) [17].

In our opinion, these are the most appropriate measures listed in the program and really would create energy efficient system:

- the modernization of the objects of Communal Services, including the transfer of boilers that serve social facilities for the use of renewable energy sources and alternative fuels. Here are the following fact. Because of the insecurity of energy efficiency in buildings the loss of heat is 47%, 12% of heat is lost through the depreciation of networks, 5% – because of outdated equipment boilers. According to experts of the European-Ukrainian Energy Agency, by using the heat modernization and repair in buildings it is possible to reduce annual energy consumption and the loss of 10-25%. At the same time, in the whole of Ukraine the potential of reducing energy consumption is 75% [3];
- the implementation of projects to build solar plants for electricity and heat, installations for the production of biodiesel and bioethanol fuel, synthetic fuel;
- the restoration of small hydropower and construction of new facilities;
- the execution of works of readjustment of structures (roofs upgrading with possible establishment therein of solar collectors, thermal insulation of external walls of buildings, basement and foundation, construction or modernization of boiler rooms in buildings, etc.).

The execution of the proposed Program is complicated by many factors, including insufficient funding, the reluctance of officials to perform their tasks, the difficult economic situation. Because of this it is still unable to form a society of conscious relation to the need for energy efficiency and development of renewable energy and alternative fuels.

In order to increase the efficiency implementation of government programs in the field of energy the relevant executive authorities were created. After the adoption the Law of Ukraine „On energy saving" from 01.07.1994 №74/94-BP, according to the Decree of the President of Ukraine of 07.06.1995 № 666/95 and to ensure governance and inter-sectoral coordination in this area, increase operational efficiency, rational use and conserve FER State Committee of Ukraine for Energy Conservation was established [18]. The noted state body carried out considerable work on implementation of energy saving policy, in particular:

- it is created the divisions of energy efficiency in ministries, in the Regional State Administration whose primary function is to increase efficiency on the rational use and conserve FER;
- it is improved the funding mechanism for energy efficiency and energy saving incentive mechanism (self-financing its customers, the acquisition FER by savings achieved as a result of energy saving measures) and others [19].

In the field of energy conservation the measures on the rational use of energy resources ar identified and implemented (including funds received from entities in the form of penalties for inefficient use of energy resources, included in the special fund of the state budget of Ukraine as own revenues of the State Committee) [20]. It is installed the organization of state control over the efficient (rational) use of FER State Inspectorate for Energy Conservation and its territorial bodies. In case of ineffective (unsustainable) use of FER in enterprises, institutions and organizations, the decision on economic sanctions by the Law of Ukraine „On energy saving" is accepted. In the case of non-payment of funds within a prescribed period of the amount must be charged in court [21].

According to Cabinet of Ministers Resolution of Ukraine of 26.11.2014 p. № 676 State Agency for energy efficiency and conservation and its territorial divisions are created, among its main tasks there are: the implementation of state policy in the field of efficient use of energy resources, energy efficiency, renewable energy and alternative fuels; the provision increasing the share of renewable energy sources and alternative fuels in the energy balance of Ukraine; the providing administrative services in this area and others [22].

The State Agency on Energy Efficiency and Energy Conservation is responsible executor of the budget program and the Ministry of Regional Development, Construction and Housing and Communal Services of Ukraine is a chief administrator of the budget according to approved by Resolution of Cabinet of Ministers of Ukraine 17.10.2011 № 1056 „The Order of the use of funds provided by the state budget for the implementation of measures for energy efficiency and energy conservation". The budget funds are used by the programs aimed at the implementation of the State Target Economic energy efficiency programs in the years 2010-2016 on the basis of the Memorandum between Ukraine and the European Union of Understanding on energy cooperation on 1.12.2005 and the Energy Strategy of Ukraine till 2030 [23].

The State Agency on Energy Efficiency and Energy Conservation has developed and realizes plan of the implementation of certain legislative acts of the EU, according to which the energy labeling of household stoves and range hoods, domestic washer-dryers, domestic television sets, household dishwashers, household electric drum dryers, air conditioners [24].

The decrees of the State Inspectorate for Energy Conservation have approved:

1) the procedure for inclusion to the State register of enterprises, institutions and organizations, which involved in the development, implementation and application of energy-saving measures and energy efficiency projects. According to the results of the examination by the State Agency for energy efficiency and conservation received opinion on the conformity of energy saving measures and energy efficiency projects already implemented or are in the process of development and implementation of energy saving criteria [25];

2) the methods of sectoral and regional energy efficiency programs to reduce energy consumption by budget institutions by their management, which includes the calculation of energy efficiency, performance and content passport these programs, action plans aimed at their implementation. Programs are directed to reduce energy intensity per unit of production, works and services rendered by enterprises of all forms of ownership and prevent misuse PER budgetary institutions.

Sectoral and Regional Energy Efficiency Program defines a set of interrelated activities, agreed on terms and resources of all actors and aimed to reduce losses and PER by implementing organizational, technical, technological and other measures, namely replacement of fixed assets, modernization of production facilities, introduction energy-efficient technologies, including electric heating systems and water heating accumulative type and technologies using alternative energy sources and more. The Program of reducing energy consumption by budget institutions defines a set of interrelated objectives and measures agreed on terms and resources with all the artists involved, aimed at solving the existing problems related to inefficient use of water and PER in budgetary institutions [26], and adopted other legal acts.

In normative legal acts the most effective energy-saving measures for the implementation of state policy on energy efficiency and conservation are defined, these are:

a) standardization (as a set of mandatory rules, regulations, requirements for efficient use and saving FER);

b) the conducting state expertises of energy saving (as of measures to match the performance of the examination, describing the use of energy resources, requirements of regulations and regulatory and technical documents in the field of energy efficiency);

c) energy examination (audit), including budgetary institutions, organizations and state-owned enterprises. The specialized organizations have recieved the right to conduct it after appropriate certification.

Let's consider more detail on the characteristics of an energy audit, which is rated as the most effective tool by which the search for ways to reduce power consumption. It includes an initial inspection company, analysis of energy consumption in some industrial processes, assessment of efficiency of energy resources, development of energy efficiency measures. The general facilities of energy audit are: enterprise, business facilities, organizations and institutions; system power, heat, fuel, water, entities; production and processing equipment; processes; activities and reporting entity in the field of energy; technical and technological documentation of the entity; departmental regulations on energy saving; rules and regulations FER; system power management entity; draft plans (programs) construction, reconstruction, expansion, preservation and liquidation of economic activity; other items for which the legislation of Ukraine provides energy audit.

The energy audit is conducted to „... obtain reliable information on the consumption of energy resources, identify opportunities to improve the use of energy resources and the development of recommendations for their implementation" [1]. Now it is widely implemented the practice of regional energy audits of industrial enterprises, all of housing engaged in production, transportation, supply and consumption of thermal energy, develop energy passports for buildings and houses.

Conclusions. Thus, according to the planned strategic goals in order to increase energy efficiency and energy saving in Ukraine the set of sectoral programs to improve energy efficiency is developed; the introducing compulsory energy management and energy audits in enterprises and institutions of all forms of ownership is carried out; the development and implementation of mechanisms to encourage companies to provide energy distribution reduce power consumption of their clients is held; the establishing more stringent energy efficiency standards for construction and reconstruction of buildings and setting the pace of energy efficiency of existing buildings; the popularization of measures to improve energy efficiency in the population; the stimulating the development of energy service companies through the creation of an appropriate regulatory framework and implementation mechanisms. At the national and regional levels of incentives and financial assistance to the population (soft loans, tax breaks, etc.) used to finance the introduction of the energy efficiency measures is developed and implemented.

However, that regulation of its performance efficiency, energy conservation, energy intensity and not fully implemented systematically, its effectiveness could be much more effective when systematizing a number of existing legislative and regulatory acts; better implementation of incentives (benefits) for implementing resource saving energy policy, the introduction of stringent sanctions for violations and / or failure of the legislation adopted.

The effective functioning of the industry will promote rapid adoption of laws „On the effective use of energy resources", „On peculiarities of implementation of procurement Energoservice", „On energy efficiency of buildings", „Energy Audit" and other projects which have already been developed. The introduction of standardization and examination of energy conservation, energy, creating UkrEsco, territorial units of energy saving require more resources, institutional and staffing; complete failure of administrative and organizational energy management method to better economic incentives industry.

It should be noted that departmental normative legal acts relating to current and strategic development of the energy sector there is a significant amount of information, namely:

1) it fixes the shortcomings and failures in the electricity, in particular, not a full and comprehensive implementation of the planned indicators; no systematic introduction of incentives (benefits) for implementing resource saving energy policy, lack of severe sanctions for violations and / or failure of the legislation adopted; availability displays administrative command energy management;

2) it will help to focus on priority areas of the energy industry, such as increased energy savings and energy efficiency, reduce energy industry;

3) it demonstrates the need for standardization and implementation expertise on energy conservation, energy, territorial units of energy saving, which require greater resources, institutional and staffing;

4) it may be taken into account if the law of Ukraine „On the effective use of energy resources", „On peculiarities implementation of procurement Energoservice", „On energy efficiency of buildings", „Energy Audit" and other projects which have already been developed.

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