

Comparative table to the draft Resolution with characteristics of the regulatory act – draft NEURC Resolution “On adopting amendments to the National Energy and Utilities Regulatory Commission of 04 October 2023 No 1812”

<i>NEURC Resolution of 04 October 2023 No 1812</i>	<i>Version of the draft Resolution with characteristics of the regulatory act – draft NEURC Resolution “On adopting amendments to the National Energy and Utilities Regulatory Commission of 4 October 2023 No 1812”</i>
NEURC Resolution of 04 October 2023 No 1812	
2. Recommend the business entities having licenses for economic activity in the energy sector, issued by NEURC, and conduct operations related to wholesale energy products shall submit the registration form for their registration as wholesale energy market participants under the timetable annexed to this Resolution.	To be excluded Therefore, the paragraphs 3 – 6 shall be respectively considered paragraphs 2 – 5.
4. Oblige the persons that registered as wholesale energy market participants before 01 February 2024 to submit to NEURC updated registration form reflecting information on final beneficiaries (controllers), affiliated wholesale energy market participants and insider information platforms under paragraphs 301 – 304, 402 – 403 and 501 – 503 of the registration form (annex 1 to the Procedure for wholesale energy market participants) before 01 June 2024.	3. Oblige the persons that registered as wholesale energy market participants before 01 April 2024 to submit to NEURC updated registration form reflecting information on final beneficiaries (controllers), affiliated wholesale energy market participants and insider information platforms under paragraphs 301 – 304, 402 – 403 and 501 – 503 of the registration form (annex 1 to the Procedure for wholesale energy market participants) before 01 August 2024.
5. Since 01 February 2024 transactions with wholesale energy products can be performed only by persons registered as wholesale energy market participants under the Procedure for registration of wholesale energy market participants adopted by this Resolution.	4. <u>Since 01 April 2024</u> transactions with wholesale energy products can be performed only by persons registered as wholesale energy market participants under the Procedure for registration of wholesale energy market participants adopted by this Resolution.
Annex (timetable for registration form submission)	To be excluded
The Procedure for registration of wholesale energy market participants	
chapter 2	

Додано примітку [A1]: This gives more time for market participants to register but further postponement will lead to the delay in data reporting, so we would suggest not to postpone farther than 01 April 2024

<p>2.4. The registration form is submitted:</p> <p>1) by an authorised representative who is a resident of Ukraine, in electronic “xls” or “xlsx” form via the official NEURC website www.nerc.gov.ua (“ПОПУЛЯРНІ РОЗДІЛИ”/ “РЕМІТ” / “РЕЄСТРАЦІЯ УЧАСНИКІВ ОПТОВОГО ЕНЕРГЕТИЧНОГО РИНКУ” or via the Electronic services portal of the Ministry of Economy (https://my.gov.ua/), or via Diia Portal “Public Services Guide” (https://guide.diia.gov.ua/) using the qualified electronic signature of the authorised representative and/or a qualified electronic seal (if applicable) in compliance with the laws of Ukraine “On electronic documents and electronic documents circulation” and “On electronic trust services” in the format supported by the Central Certification Authority;</p> <p>2) by an authorised representative who is not a resident of Ukraine in paper form, handed over personally or sent by post to the NEURC address (original of the filled-out registration form signed by the authorised representative), while simultaneously submitting the registration form in electronic “xls” or “xlsx” form via the official NEURC website www.nerc.gov.ua (“ПОПУЛЯРНІ РОЗДІЛИ”/ “РЕМІТ” / “РЕЄСТРАЦІЯ УЧАСНИКІВ ОПТОВОГО ЕНЕРГЕТИЧНОГО РИНКУ” without qualified electronic signature.</p>	<p>2.4. The registration form is submitted:</p> <p>1) by an authorised representative who is a resident of Ukraine, in electronic “xls” or “xlsx” form via the official NEURC website www.nerc.gov.ua (“ПОПУЛЯРНІ РОЗДІЛИ”/ “РЕМІТ” / “РЕЄСТРАЦІЯ УЧАСНИКІВ ОПТОВОГО ЕНЕРГЕТИЧНОГО РИНКУ”) or via the Electronic services portal of the Ministry of Economy (https://my.gov.ua/) or via Diia Portal “Public Services Guide” (https://guide.diia.gov.ua/) using the qualified electronic signature of the authorised representative and/or a qualified electronic seal (if applicable) in compliance with the laws of Ukraine “On electronic documents and electronic documents circulation” and “On electronic trust services” in the format supported by the Central Certification Authority;</p> <p>2) by an authorised representative who is not a resident of Ukraine: in electronic “xls” or “xlsx” form via the Electronic services portal of the Ministry of Economy (https://my.gov.ua/) using the qualified electronic signature of the authorised representative in compliance with the Laws of Ukraine “On electronic documents and electronic documents circulation” and “On electronic trust services” in the format supported by the Central Certification Authority (ECDSA), or</p> <p>in paper form, handed over personally or sent by post to the NEURC address (original of the filled-out registration form signed by the authorised representative), while simultaneously submitting the registration form in electronic “xls” or “xlsx” form via the official NEURC website www.nerc.gov.ua (“ПОПУЛЯРНІ РОЗДІЛИ”/ “РЕМІТ” / “РЕЄСТРАЦІЯ УЧАСНИКІВ ОПТОВОГО ЕНЕРГЕТИЧНОГО РИНКУ”) without qualified electronic signature.</p>
<p>2.8. The grounds to refuse registration of a person as a wholesale energy market participant are one of the following:</p> <p>1) submission of the registration form by a person whose powers are not confirmed/absent as of the date of submission of the registration form;</p>	<p>2.8. The grounds to refuse registration of a person as a wholesale energy market participant are one of the following:</p> <p>1) non-submission of a registration form in electronic form by an authorised representative who is not a resident of Ukraine;</p>

Додано примітку [A2]: To clarify definition of Central Certification Authority and ECDSA

Додано примітку [A3]: The wording is very general and it is not clear if non-residents may submit the documents with the electronic signature issued by EU bodies and included in the EU trusted lists of qualified trust service providers (as provided by the CMU Resolution 1198 of 14.11.23). NEURC should ensure a quick electronic procedure of registration for non residents similar to that of UA stakeholders.

Додано примітку [A4]: This provision needs clarification as according to 2) of 2.4 there is an option to submit paper form together with the electronic.

<p>2) inconsistency of the information specified in the registration form with the information from the state electronic registers of Ukraine (regarding the name, location of the business entity, its identification code or Taxpayer Identification Number);</p> <p>3) incomplete and/or incorrect submission of data defined as mandatory by the registration form;</p> <p>4) availability of information that the business entity's activities are controlled, within the meaning of Article 1 of the Law of Ukraine "On Protection of Economic Competition", by residents of states that carry out armed aggression against Ukraine within the meaning of Article 1 of the Law of Ukraine "On Defence of Ukraine".</p> <p>If there are grounds to refuse registration of a person as a wholesale energy market participant, NEURC shall, within 10 business days from the date of receipt of the registration form or the original registration form signed by an authorised representative who is a not a resident of Ukraine, make a decision to refuse registration, specifying the grounds for refusal of registration.</p> <p>NEURC shall notify of the made decision within 3 business days since adoption.</p> <p>The decision to refuse registration may be appealed in court.</p>	<p>2) submission of the registration form by a person whose powers are not confirmed/absent as of the date of submission of the registration form;</p> <p>3) inconsistency of the information specified in the registration form with the information from the state electronic registers of Ukraine (regarding the name, location of the business entity, its identification code or Taxpayer Identification Number);</p> <p>4) incomplete and/or incorrect (the information (data) do not comply with respective clarifications envisaged by the registration form and/or documents annexed to the registration form; the registration form or its separate paragraphs are not filled-out in the respective language) submission of data defined as mandatory by the registration form;</p> <p>5) availability of information that the business entity's activities are controlled, within the meaning of Article 1 of the Law of Ukraine "On Protection of Economic Competition", by residents of states that carry out armed aggression against Ukraine within the meaning of Article 1 of the Law of Ukraine "On Defence of Ukraine".</p> <p>6) availability of information that the business entity's activities are controlled, within the meaning of Article 1 of the Law of Ukraine "On Protection of Economic Competition", by persons located (residing) on temporarily occupied territories (unless such persons have a certificate of registration of an internally displaced person, the validity of which is confirmed by information from the Unified Information Database on Internally Displaced Persons).</p> <p>If there are grounds to refuse registration of a person as a wholesale energy market participant, NEURC shall, within 10 business days from the date of receipt of the registration form or the original registration form signed by an authorised representative who is a not a resident of Ukraine, make a decision to refuse registration, specifying the grounds for refusal of registration.</p> <p>NEURC shall notify of the made decision within 3 business days since adoption.</p>
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	The decision to refuse registration may be appealed in court.
<p>2.11. Participants must provide accurate and relevant information (data) as of the date of submission of the updated registration form.</p> <p>In case of incomplete and/or incorrect submission of the information in the updated registration form, the NEURC shall, within 10 business days from the date of its receipt, notify the authorised representative of the Participant by e-mail of the need to submit an updated registration form.</p> <p>The Participant shall submit a revised version of the updated registration form within 10 business days from the date of receipt of the NEURC's notification to the email address of the authorised representative.</p>	<p>2.11. Participants must provide accurate and relevant information (data) as of the date of submission of the updated registration form.</p> <p>In case of incomplete and/or incorrect (the information (data) do not comply with respective clarifications envisaged by the registration form and/or documents annexed to the registration form; the registration form or its separate paragraphs are not filled-out in the respective language) submission of the information in the updated registration form, the NEURC shall, within 10 business days from the date of its receipt, notify the authorised representative of the Participant by e-mail of the need to submit an updated registration form.</p> <p>The Participant shall submit a revised version of the updated registration form within 10 business days from the date of receipt of the NEURC's notification to the email address of the authorised representative.</p>
Annex 1 (registration form)	To be reformulated

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Додано примітку [A5]: For English translation of the form it is recommended to use the ACER Decision 01/2012 relating to the registration format pursuant to Article 9(3) of Regulation (EU) 1227/2011 (were relevant)