



NATIONAL ENERGY AND UTILITIES REGULATORY COMMISSION

RESOLUTION

of 26 September 2023 No. 1756

On Approval of the Procedure for Investigating Abuses in the Wholesale Energy Market

Under the [Law of Ukraine](#) “On the National Energy and Utilities Regulatory Commission”, the National Energy and Utilities Regulatory Commission hereby **RESOLVES** that

1. The [Procedure for investigating abuses in the wholesale energy market](#) attached hereto is approved.
2. The [Resolution of the National Commission for State Regulation of Energy and Utilities of 23 September 2020 No. 1760](#) “On approval of the Procedure for Investigation of Violations of the Legislation on the Functioning of the Electricity and Natural Gas Markets” (as amended) shall be deemed invalid.
3. This Resolution shall enter into force 30 days after the day of its publication on the official website of the National Energy and Utilities Regulatory Commission.

NEURC Chair

K. Ushchapovskyi

APPROVED
Resolution of the National
Energy and Utilities
Regulatory
Commission

of 26 September 2023 No. 1756

PROCEDURE
for investigating abuses in the wholesale energy market

1. General Provisions

1.1. This Procedure sets out the procedure applied by the National Energy and Utilities Regulatory Commission (hereinafter referred to as NEURC, the Regulator) to investigate abuses in the wholesale energy market.

1.2. This Procedure applies to wholesale energy market participants, individuals or legal entities, including applicants, persons professionally arranging wholesale energy transactions, data transmission administrators, and administrators of inside information platforms.

1.3. For the purposes of this Procedure, the terms listed below shall have the following meaning:

“Applicant” shall mean a wholesale energy market participant, a person who professionally arranges transactions with wholesale energy products, public authority and any other natural or legal entity (except for household consumers), the Energy Community Regulatory Board, the Energy Community Secretariat, national energy regulators of other states, which are Energy Community Contracting Parties or national regulatory authorities of the European Union, the Agency for the Cooperation of Energy Regulators that filed a report (application) on possible abuse in the wholesale energy market;

“Evidence” shall mean any factual data, the sources of which are, in particular, clarifications on the entity under investigation and expert opinions, based on which the Regulator shall establish whether there are circumstances (facts) confirming or refuting the existence of elements of abuse in the wholesale energy market in the actions of the electricity / natural gas market participant, and other circumstances related to the entity under investigation;

“Subject matter of investigation” shall mean market behaviour (actions), circumstances, and factual data indicating possible abuse committed in the wholesale energy market by its participant/entity;

“Aggravating circumstances” shall mean actions (acts or omission) of the entity under investigation aimed, in particular, at concealing the offence and its negative consequences, continuing the offence, as well as repeated offences in the wholesale energy market;

“Notification (statement) of possible abuse in the wholesale energy market” (hereinafter referred to as the Notification) shall mean a document prepared by the Applicant under the form specified by NEURC in [Annex 1](#) to this Procedure to provide information on possible abuse in the wholesale energy market;

“Mitigating circumstances” shall mean actions taken by the entity under investigation to minimize the negative consequences caused by the abuse in the wholesale energy market, recognition and immediate cessation of the abuse in the wholesale energy market, voluntary compensation for damages

caused to market participants/consumers before the detection of the abuse, independent and prompt notification of the fact of the abuse prior to the NEURC's investigation, assistance in the detection of the abuse in the course of the NEURC's investigation;

“Investigation of abuse in the wholesale energy market” (hereinafter referred to as the “Investigation”) shall mean a range of actions defined in [Article 20²](#) of the Law of Ukraine “On the National Energy and Utilities Regulatory Commission”, performed by the Regulator upon notification of the applicants and on its initiative if there are grounds provided for by this Procedure and aimed at preventing, detecting and stopping abuse in the wholesale energy market;

“Entity under investigation” shall mean the wholesale energy market participant, a person who performs transactions with wholesale energy products without registration as a participant of the wholesale energy market, in respect of whom a decision to initiate an investigation has been taken.

The terms “professional secret”, “abuse in the wholesale energy market”, “wholesale energy market”, “wholesale energy products”, “person who professionally arranges transactions with wholesale energy products”, “wholesale energy market participant”, “basic data” and other terms are used in this Procedure in the meaning given in the Laws of Ukraine “[On the National Energy and Utilities Regulatory Commission](#),” “[On the Natural Gas Market](#),” “[On the Electricity Market](#),” “[On Information](#)” and other laws and regulations.

1.4. The NEURC shall institute investigations upon notification of the applicants and on its initiative, if there are grounds provided for in this Procedure, in order to ensure the prevention, detection, and elimination of abuse in the wholesale energy market, to identify all objective circumstances that contributed to the commission of such abuse, including aggravating and mitigating circumstances, to identify persons who have sustained damage (if any), and to bring the perpetrators to justice in accordance with the law.

1.5. The investigation shall comprise the following phases:

- 1) preliminary research is conducted, resulting in proposals on whether to initiate an investigation;
- 2) a decision is made to initiate or refuse to initiate the investigation and to establish an investigating commission (should it be decided to initiate an investigation);
- 3) all circumstances relevant to the investigation are clarified and the investigation conclusion is drawn up;
- 4) the entity under investigation provides evidence, explanations, objections, and and submits petitions;
- 5) conclusions on the investigation outcomes are drawn up;
- 6) the Regulator adopts a decision based on the investigation outcomes.

1.6. During the investigation, the Regulator may:

demand copies of documents, information, data, and explanations on issues related to the entity under investigation from participants in the wholesale energy market, entities under the investigation, as well as from persons who professionally arrange transactions with wholesale energy products, administrators of data transmission and inside information platforms;

receive, within the scope of its powers, information from any public authority necessary for the proper performance of its duties;

hold hearings to obtain information relevant to the investigation;

exchange information, including restricted information, with the Antimonopoly Committee of Ukraine, the Energy Community Regulatory Board, the Energy Community Secretariat, the regulatory authorities of the Energy Community Contracting Parties, the national energy authorities of European countries, the National Securities and Stock Market Commission regarding actions that may indicate violations of laws in the wholesale energy market;

make audio and video recordings of examination of evidence and hearings;

engage experts from among persons who have the necessary knowledge to provide an expert opinion;

request law enforcement agencies to assist the Regulator in exercising its powers to investigate abuses in the wholesale energy market;

require the cessation of actions that impede the investigation;

file actions, applications, and complaints in court under the established procedure;

benefit from other rights provided for by law.

1.7. During the investigation, the entities under investigation may:

submit evidence, data, information, explanations (objections), proposals, and supporting documents regarding the facts and circumstances, market behaviour being investigated, and submit motions;

acknowledge the fact of potential abuse in the wholesale energy market committed by it before the conclusion of the investigation results is approved;

notify the NEURC of measures taken to mitigate the negative consequences caused by the abuse in the wholesale energy market;

submit requests to the NEURC, in particular regarding the appointment of an expert to analyse available evidence, data, information, etc;

request that the confidentiality of information and data submitted under this Procedure be observed;

request a hearing under this Procedure and be present at the hearing;

read the investigation files (except for documents, statements, or other information, including restricted information, the disclosure of which may violate the rights and interests of another entity under investigation, wholesale energy market participants, applicants, persons professionally arranging transactions with wholesale energy products, or impede further investigation) after the entity under investigation has received the conclusion of the investigation.

1.8. In the course of the investigation, the entities under investigation shall:

not obstruct the Regulator's employees in conducting the investigation, provided that the relevant actions are taken by such persons in compliance with the requirements of law and this Procedure;

provide documents, explanations, certificates, information, and materials on issues arising during the investigation to the extent, under the form, within the time limits and in the manner prescribed by the Regulator;

attend hearings.

1.9. Wholesale energy market participants, entities under investigation, other market participants/entities, persons professionally arranging transactions with wholesale energy products, and administrators of data transmission /inside information platforms shall provide the NEURC with the requested documents and information, including restricted information.

The requested documents shall be submitted to the NEURC to the extent, under the form and within the time limits prescribed by the NEURC, in electronic form with a qualified electronic signature of the authorized person of the business entity and/or a qualified electronic seal of the business entity, in compliance with the requirements of the Laws of Ukraine “[On Electronic Documents and Electronic Document Management](#),” and “[On Electronic Trust Services](#)” or in another manner prescribed by the Regulator.

Wholesale energy market participants, entities under investigation, persons professionally arranging transactions in wholesale energy products, and administrators of data transfer/inside information platforms may apply to NEURC for a reasonable extension of deadlines for providing the relevant information, but not for more than ten business days.

Failure to provide information, incomplete or incorrect information supplied by the entity under investigation at the request of the NEURC shall be considered an aggravating circumstance when the conclusion of the investigation is prepared and shall give rise to the liability provided for by law and this Procedure.

1.10. Wholesale energy market participants, entities under investigation, market participants/entities, persons professionally arranging transactions with wholesale energy products, and administrators of data transfer/inside information platforms shall bear the material costs of copying documents and preparing written statements, as well as transport costs incurred in connection with the NEURC’s investigation (except for the transport costs of the NEURC and its experts).

1.11. The period to be investigated shall not exceed three calendar years prior to the year when the investigation was instituted.

1.12. The total duration of the investigation shall not exceed 18 months from the date of the NEURC’s decision to initiate the investigation.

This period may be extended by a maximum of 12 months by the decision of the NEURC if there are reasonable grounds for doing so.

1.13 If the NEURC does not adopt a decision based on the results of the investigation within the period specified in Clause 1.12 of this Chapter, the NEURC shall close the investigation.

2. The requirements for the notification of and the procedure for notifying potential abuses in the wholesale energy market

2.1. Applicants shall notify NEURC of any possible abuses in the wholesale energy market in one of the following ways:

- in person (on paper and/or digital media);
- by post with a description of the attachment;
- electronically, to the e-mail address box@nerc.gov.ua;
- by filling out the online form on the NEURC website.

Persons professionally arranging transactions with wholesale energy products shall submit notifications to the NEURC via a secure digital channel for data exchange. Persons professionally arranging transactions with wholesale energy products shall be granted access to the secure digital channel for data exchange after submitting information to the NEURC in the form attached as [Annex 2](#) to this Procedure.

2.2. Applicants shall provide notifications in Ukrainian or English under the forms included in [Annex 1](#).

2.3. The notification shall include:

general information;

type of potential abuse;

details of possible abuse and justification, referring to evidence and/or relevant documents.

2.4. The applicant must provide information confirming and substantiating the data, facts and circumstances set out in its notification when submitting it to NEURC.

2.5. Grounds for dismissing the notification without considering it on the merits:

the notification is not drawn up under the required form;

the notification fails to address issues of abuse in the wholesale energy market; and

the applicant has failed to provide sufficient information to confirm or substantiate the notification.

2.6. The NEURC shall, within 30 calendar days of receiving notification, inform the applicant of whether the notification has been accepted or dismissed without considering it on the merits.

3. Preliminary research

3.1. Preliminary research shall be carried out by collecting information related to possible abuses in the wholesale energy market.

The subdivision of the NEURC responsible for managing the investigation of abuse in the wholesale energy market (hereinafter referred to as the NEURC subdivision) shall conduct preliminary research on possible abuse in the wholesale energy market.

During the preliminary research, the NEURC subdivision may engage other NEURC subdivisions competent in examining the relevant issues.

3.2. Data, information, and circumstances that may indicate elements of abuse in the wholesale energy market shall be subject to preliminary research.

3.3. Preliminary research may be initiated, inter alia, based on:

monitoring of market behaviour and commercial operations related to wholesale energy products performed by the Regulator under [Clause 3¹](#) of Part 1 of Article 20 and [Part 2](#) of Article 20¹ of the Law of Ukraine “On the National Energy and Utilities Regulatory Commission.”

communications from applicants;

a notification of a natural person or legal entity of abuse committed by it in the wholesale energy market;

communications from the Energy Community Regulatory Board or national energy regulatory authorities of other Energy Community Contracting Parties or national regulatory authorities of the European Union, and the Agency for the Cooperation of Energy Regulators.

3.4. The preliminary research shall, in particular, consist of the following stages:

information received under Clause 3.3 of this Chapter, is collected, processed and analysed to assess the market behaviour of market participants and actions indicating possible abuse in the wholesale energy market;

possible abuse committed by other wholesale energy market participants is identified;

the Regulator sends requests for information and explanations to wholesale energy market participants and other persons;

the type of possible abuse in the wholesale energy market is determined;

A proposal to declare the wholesale energy market participant as such that has committed abuse in the wholesale energy market is sent.

3.5. The NEURC subdivision shall use the following sources of information during the preliminary research:

data/information on executed and unexecuted transactions with wholesale energy products from persons professionally arranging transactions in wholesale energy products;

data/information on wholesale energy products from data transfer administrators;

data/information on the publication of data on inside information platforms;

data/information from the Energy Community Regulatory Board or national energy regulatory authorities of other Energy Community Contracting Parties or national regulatory authorities of the European Union, and the Agency for the Cooperation of Energy Regulators;

data/information from other public authorities;

basic data;

data from subscribed information resources; and

publicly available information sources (mass media, broadcast media, Internet portals, public speeches and other information sources).

3.6. In conducting the preliminary research, the NEURC subdivision may use any information available to it or any information it has access to regarding the wholesale energy market and its participants.

3.7. Following the preliminary research, the NEURC subdivision shall report its results in writing to the NEURC Chair and members to enable the NEURC to adopt a respective decision.

3.8. The results of the preliminary research shall be confidential and shall not be subject to public disclosure.

4. Adopting a decision to initiate an Investigation

4.1. Based on the results of the preliminary research, under the requirements of paragraph 3.7 of Chapter 3 hereof and in accordance with the [Procedural Regulations of the National Energy and Utilities Regulatory Commission](#) approved by NEURC Resolution of 6 December 2016 No. 2133 (hereinafter – the Regulations), the NEURC subdivision shall submit to the NEURC a draft decision to initiate an investigation or to refuse to conduct an investigation.

The NEURC shall notify the Energy Community Regulatory Board and the Energy Community Secretariat that it has initiated an investigation by using the form attached as [Annex 4](#) to this Procedure. The requirements for ensuring the confidential use of such information shall be determined by a non-disclosure agreement, which shall apply to the participants (signatories) of this agreement.

4.2. If the NEURC decides to initiate an investigation, it shall publish this decision on its official website within five (5) business days from the date of its adoption.

Within five (5) business days from the day following the publication of the decision to initiate an investigation, the NEURC shall send a notification of the institution of the investigation together with a

copy of the decision to the entity under investigation by registered mail to the address indicated in the Register of Wholesale Energy Market Participants/NEURC Licence Register/Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations.

The notification of initiating an investigation shall contain the information on the entity under investigation and the period covered by the investigation.

The date of receipt of the notification and a copy of the decision to initiate an investigation shall be deemed to be the date of its receipt by the representative of the entity under investigation, confirmed by the recipient's signature, or the third calendar day after the date of receipt of the letter by the post office where the recipient is domiciled.

The NEURC may send a copy of the decision to open an investigation to the entity under investigation using its e-mail address indicated in the Register of Wholesale Energy Market Participants/NEURC Registry of Licensees.

5. The organisation and conduct of the investigation

5.1. An Investigation Commission (hereinafter referred to as the Commission) shall be established from among the employees of the NEURC subdivision to conduct the investigation, in compliance with provisions on conflict of interest.

The Commission shall be composed of at least five employees of the NEURC subdivision, from whom the Chair of the Commission shall be appointed.

The NEURC subdivision shall carry out its activities and make decisions in accordance with the NEURC's internal documents.

5.2. The Investigation shall be conducted by the Commission, with the possible involvement of employees of other state authorities and expert institutions competent to examine the relevant issues and in compliance with provisions regarding conflicts of interest. Such being the case, the persons involved in the Investigation shall be subject to the provisions on professional secrecy.

5.3. The Commission Chair shall:

- 1) organise the investigation;
- 2) allocate responsibilities for performing tasks during the investigation among the Commission members, and monitor their execution;
- 3) be responsible for the timely conduct of the investigation and its findings;
- 4) preside or authorise another Commission member (in his/her absence) to preside over the NEURC hearings;
- 5) sign the minutes of the hearings; and
- 6) sign the conclusion of the investigation/its results.

5.4. In accordance with the requirements of the Laws of Ukraine "[On Electronic Documents and Electronic Document Management](#)" and "[On Electronic Trust Services](#)," the Regulator shall send to the entity under investigation requests for information, copies of documents and explanations, the offer to admit the violation being investigated by registered mail and/or to the e-mail address of the entity under investigation with the qualified electronic signature of the NEURC member/Chairman and/or the qualified electronic stamp of NEURC.

If necessary, the Regulator shall send requests for information, copies of documents and clarifications to other participants of the wholesale energy market, persons professionally arranging

transactions with wholesale energy products, administrators of data transfer / inside information platforms in electronic form with the qualified electronic signature of the business entity's authorised person and/or the qualified electronic stamp of the business entity in compliance with the requirements of the Laws of Ukraine “[On Electronic Documents and Electronic Document Management](#)” and “[On Electronic Trust Services](#).”

5.5. While conducting an investigation, the Commission shall, in particular:

collect, study and analyse (in particular commercial operations related to wholesale energy products) and assess evidence;

interpret data;

make calculations, perform modelling and process expert opinions;

confirm or refute the existence of abuse in the actions of the entity under investigation in the wholesale energy market;

establish and assess the circumstances of the abuse;

analyse the legal provisions to be observed by the investigated party; and

perform other actions provided for by the present Procedure and the laws.

The NEURC may, on reasonable grounds, request the information, data and documents obtained in the course of the preliminary research.

5.6. During the Investigation, the NEURC shall prove the nature of the abuse committed, including it being a part of practices already approved by the Regulator, at the time when the wholesale energy market participants were operating, as manipulation or attempted manipulation in the wholesale energy market.

The Commission shall, in compliance with the requirements for integrity and transparency in the wholesale energy market, initiate amendments to the relevant regulatory acts if new types of practices are identified that may constitute manipulation or attempted manipulation in the wholesale energy market.

5.7. Wholesale market participants and applicants shall enjoy the rights of an entity under investigation provided for in [clause 1.7](#) of Chapter 1 of this Procedure and other rights provided by applicable law.

6. Hearing procedure

6.1. In order to clarify the facts and circumstances being investigated and to allow the entity under investigation to submit documents, explanations, and objections, the Commission may hold hearings on its own initiative or at the request of the entity under investigation.

The Commission may hold separate hearings with wholesale energy market participants, applicants, persons professionally arranging transactions with wholesale energy products, administrators of data transfer and inside information platforms.

Hearings shall be conducted in compliance with the requirements of laws governing the protection of classified information.

6.2. The clarifications of the entity under investigation and other participants in the hearings, as well as documents, clarifications and objections related to the entity under investigation shall be considered at the hearings.

6.3. The Commission shall schedule the date, time, and place of the hearing and shall notify, in writing and five business days before the date of the hearing, the entity under investigation (in particular, it shall indicate whether an authorized employee of the entity under investigation is required to attend) and other participants in the hearing by sending letters in the electronic form to the e-mail addresses with the qualified electronic signature of the NEURC Chair/Member whose functional responsibilities include organising and conducting investigations.

6.4. If the entity under investigation and other participants in the hearing are unable to attend the hearing, they must notify the Commission no later than one business day prior to the hearing.

6.5. At the appointed time, the Commission Chair or an authorised Commission Member shall open the hearing, designate a hearing secretary from among the Commission Members present and raise questions on whether the entity under investigation or other participants in the hearing have any clarifications, objections, documents, and information related to the investigation that has not previously been provided.

6.6. Should the entity under investigation or other participants in the hearing provide new evidence, supporting documents or information relevant to the investigation, the Commission may postpone the hearing to allow for their complete and comprehensive review.

The new evidence, supporting documents and information shall be attached to the minutes of the hearing.

The date of the next hearing shall be communicated to the entity under investigation and other participants in the hearing under the procedure outlined in [Clause 6.3](#) of this Chapter.

6.7. During the hearings, the Commission, the entity under investigation, and other participants in the hearings may propose to suspend or postpone the hearings provided they have well-founded reasons for that.

6.8. During the hearing, the NEURC employees, the authorised representative of the entity under investigation, and other participants in the hearing may raise issues relevant to the investigation.

6.9. During the hearing, the entity under investigation and other participants in the hearing shall be required to provide truthful explanations, and reliable documents and information.

6.10. Following the hearing, the Secretary shall prepare minutes of the hearing, where they shall mention the persons who participated in the hearing, the content of their clarifications, objections, documents, and other information provided by the entity under investigation and other participants in the hearing, and decisions (if any).

The minutes of the meeting shall be signed by the Chair of the meeting and the Secretary.

Copies of the minutes of the hearing shall be sent to the entity under investigation and other participants in the hearing within five business days of the date of the hearing, in the manner prescribed by the law.

6.11. The minutes of the hearing, together with all the documents and evidence presented at the hearing, shall be included in the investigation file.

6.12. The entity under investigation and/or other participants in the hearing may submit comments on the minutes of the hearing in which they participated within five business days from the date of their receipt. Such comments shall be attached to the investigation file.

7. Conclusion of the investigation

7.1. After the investigation, the Commission shall prepare a conclusion on the investigation results in compliance with [clause 3](#) of Part 1 of Article 20² of the Law of Ukraine “On the National Energy and Utility Regulatory Commission.”

7.2. For the purpose of informing the entity under investigation, NEURC shall send its conclusion on the investigation results by registered mail to the address of the entity under investigation indicated in the Register of Wholesale Energy Market Participants/NEURC Registry of Licensees/Unified State Register of Legal Entities, Private Entrepreneurs and Public Organisations.

The NEURC may send the conclusion of the investigation to the e-mail address of the entity under investigation with the qualified electronic signature of the NEURC member/Chair and/or the qualified electronic stamp of NEURC in compliance with the requirements of the Laws of Ukraine “[On Electronic Documents and Electronic Document Management](#)” and “[On Electronic Trust Services](#).”

If the entity under investigation has objections to the conclusion of the investigation, the entity under investigation may submit them to the NEURC within no more than 20 calendar days from the date of receiving the conclusion of the investigation.

The date of receiving the conclusion of the investigation shall be deemed to be the date of its receipt by the representative of the entity under investigation, confirmed by their signature, or the third calendar day from the date of receiving the letter by the post office where the entity under investigation is domiciled.

If no objections to the conclusion of the investigation are filed within the time limit specified in the Procedure, it is deemed to have been agreed upon by the parties.

Received objections to the conclusion of the investigation shall be attached to it as annexes and shall constitute its integral part.

The entity under investigation may apply to the Commission with a request to read the investigation file, except for classified information, in compliance with the requirements of the legislation on the storage of classified information.

The entity under investigation shall read the investigation file within the time limits for filing objections to the conclusion of the investigation outlined in this Procedure.

Upon a reasoned request of the entity under investigation, the deadline for submitting objections to the conclusion of the investigation may be extended by a maximum of ten (10) calendar days, and NEURC shall immediately notify the entity under investigation thereof.

7.3. Upon receipt of objections to the conclusion of the investigation from the entities under investigation, the Commission shall, in accordance with [clause 5](#) of Part 1 of Article 20² of the Law of Ukraine “On the National Energy and Utilities Regulatory Commission,” prepare a conclusion on the investigation results in the form specified in Annex 3 to this Procedure.

7.4. The conclusion on the investigation results shall contain the data and information specified in [Annex 3](#) to this Procedure.

7.5. The conclusion on the investigation results shall be signed by the Chair and members of the Commission and approved by the Head of the NEURC subdivision and the NEURC Chair/Member whose functional responsibilities include the organisation and conduct of investigations.

7.6. The signed conclusion on the investigation results shall be registered in the Logbook of Registration of Conclusions on the Results of Investigations, the pages of which shall be sewn together, numbered and certified by the signature of the Head of the NEURC subdivision.

7.7. A copy of the signed and approved conclusion on the investigation results shall be sent by registered mail to the address of the entity under investigation specified in the Register of Wholesale Energy Market Participants/NEURC Registry of Licensees/Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations within five (5) business days from the date of its signing.

NEURC may send a conclusion on the investigation results to the e-mail address of the entity under investigation with the qualified electronic signature of the NEURC member/Chair and/or the qualified electronic stamp of NEURC in compliance with the requirements of the Laws of Ukraine “[On Electronic Documents and Electronic Document Management](#)” and “[On Electronic Trust Services](#).”

8. Protection of classified information

8.1. Classified information received by NEURC during the investigation shall be used solely for the purpose of the investigation and shall not be subject to disclosure and publication, except for:

- providing information to pre-trial bodies and judicial authorities as required by law;
- other cases stipulated by law.

8.2. For the purposes of this Procedure, confidential information shall mean data on:

accounts of entities under investigation, in particular regarding the movement of funds and/or balances;

commercial transactions related to wholesale energy products and transactions made by the entity under investigation;

the counterparties of the entity under investigation, except for information obtained from public sources;

Other information, access to which was restricted by the participants in the wholesale energy market and persons professionally arranging transactions with wholesale energy products.

The Chair and members of the Regulator, its employees (including former employees), employees of other state authorities or expert organisations involved in the investigation are prohibited from disclosing information obtained in the course of the investigation of abuse in the wholesale energy market, except as provided for by law.

8.3. The entity under investigation, individuals/legal entities, and persons engaged in professional activities with wholesale energy products who provide information shall be required to indicate which information is confidential, and which documents or parts thereof contain confidential information.

9. Procedure for adopting decisions by the NEURC

9.1. Following the investigation and based on the conclusion of its results, the NEURC shall adopt a resolution on:

- 1) the elimination of the identified violations;
- 2) imposition of sanctions and taking measures provided for by law;
- 3) imposition of administrative penalties on officials of wholesale energy market participants under the [Code of Ukraine on Administrative Offences](#);
- 4) the submission of a criminal offence report with law enforcement agencies (provided there are grounds for that);

5) filing a statement with the Antimonopoly Committee of Ukraine on violation of the legislation on the protection of economic competition (provided there are grounds for that);

6) reporting to the National Securities and Stock Market Commission about instances of abuse in the wholesale energy market that may affect financial instruments.

The NEURC's resolution adopted following the investigation may contain several decisions as provided for in sub-clauses of this clause.

Should the investigation establish, inter alia, the absence of abuse and/or insufficient evidence to prove it, and/or should the general investigation period have expired, the NEURC shall decide to close the investigation based on the conclusion of the investigation results.

9.2. The decision to impose sanctions shall be taken by the Regulator within thirty days from the date when the conclusion of the investigation into the abuse of the wholesale energy market was drawn up and in compliance with the provisions of [clause 8](#) of Chapter II "Final and Transitional Provisions" of the Law of Ukraine "On Introducing Amendments to Certain Laws of Ukraine on Prevention of Abuse in the Wholesale Energy Market" of 10 June 2023 No. 3141-IX.

9.3. The NEURC shall adopt its decision at a meeting held as an open or closed hearing in compliance with the [Regulations](#).

9.4. The NEURC's decision on the results of the investigation may be appealed in court.

**Director of the Department
of Licensing Control**

Ya. Zeleniuk

Annex 1
to the Procedure for Investigating Abuses in the
Wholesale Energy Market

NOTIFICATION
(statement) of potential abuse in the wholesale energy market

Item No.	Form	Information to be provided	Remarks
I. General Information			
1.	Applicant's category		<i>The category of the applicant shall be indicated as follows: wholesale energy market participant*; person professionally arranging transactions with wholesale energy products; the national energy authority of a European country; the national authority; other (to be specified)*</i>
2.	Applicant's name/full name		<i>The name of the company/public authority; or the last name, first name, patronymic (for individuals) shall be indicated</i>
3.	EDRPOU/RNOKPP/ECRB code		<i>The ECRB code, EDRPOU code or RNOKPP (for an individual) shall be indicated</i>
4.	Contact details		<i>Location address; email address; telephone number</i>
5.	Authorized person		<i>Last name, first name, patronymic, title; telephone number; postal address; the document confirming their powers</i>
6.	Circumstances under which the potential abuse was discovered		<i>It shall be described when and how the applicant became aware of possible abuse</i>
7	Notification date and time		<i>The date and time of notification of suspicious behaviour in the wholesale energy market and/or</i>

			<i>possible abuse in the wholesale energy market shall be indicated</i>
II. Type of potential abuse			
8.	Type of abuse		<i>The type of abuse shall be selected from below: violation of the established restrictions on the use of inside information; non-disclosure or disclosure of inside information in violation of the requirements established for the disclosure of such information; manipulation and/or attempted manipulation in the wholesale energy market; execution of transactions with wholesale energy products without registering as a wholesale energy market participant.</i>
9.	Market		<i>It shall be indicated in which wholesale market the alleged abuse has been committed: the electricity market or the natural gas market;</i>
10.	The wholesale energy product		<i>The type of wholesale energy product shall be selected from below: agreements for the purchase and sale of electricity or natural gas; derivatives with electricity or natural gas as their underlying asset; agreements for the transmission of electricity or transportation of natural gas, access to carrying capacity/ capacity allocation; derivatives for electricity or natural gas transmission, access to capacity/capacity allocation; agreements for the supply or distribution of electricity and/or natural gas to end consumers with a total nominal consumption capacity of the consumer's installations, which ensures the technical capacity of electricity or gas consumption in the amount of 600 GWh per year and more</i>
11.	The quantity of wholesale energy products		<i>The quantity of wholesale energy products involved in abuse</i>
III. Detailed information on alleged abuse			

12.	Date (and time) of the alleged abuse		<i>Date (and time, if possible) of alleged abuse shall be indicated</i>
13.	Name(s) of the wholesale energy market participant(s) and/or other person(s) who committed the alleged abuse		<i>The name of the wholesale energy market participant that committed the abuse, the code of the wholesale energy market participant, and/or the name of the company in the event of transactions with wholesale energy products without registering as the wholesale energy market participant, and/or the surname, first name, and patronymic of the person who committed the abuse.</i>
14.	Detailed description of the alleged abuse		<p><i>A detailed description of the alleged abuse shall be provided.</i></p> <p><i>1. In the event of market manipulation and/or attempted market manipulation, the detailed type of manipulation/attempted manipulation (transaction(s), application(s), behaviour(s)) shall be described in accordance with Parts 2 and 3 of Article 11² of the Law of Ukraine “On the Electricity Market” and Parts 2 and 3 of Article 57² of the Law of Ukraine “On the Natural Gas Market.”</i></p> <p><i>The description of the application/transactions/behaviour shall also be provided as follows:</i></p> <p><i>wholesale product(s) involved, the wholesale energy market segment, product(s) delivery location, product delivery date (start and end, order/transaction time stamps, the period when the potential abuse occurred), load type, contract identifiers, transaction identifiers, other details of transactions/applications (only for a person professionally arranging transactions with wholesale energy products).</i></p> <p><i>2. In the event of violation of restrictions on handling inside information, the type of the violated restriction shall be indicated in accordance with Article 57¹ of the Law of Ukraine “On the Natural Gas Market” and Article 11¹ of the Law of Ukraine “On the Electricity Market.”</i></p> <p><i>The following shall also be indicated:</i></p> <p><i>the date of disclosure of inside information;</i></p> <p><i>the content of inside information, the date, and time of the beginning, the date and time of the end;</i></p> <p><i>the content of disclosed remarks on the disclosure of inside information;</i></p> <p><i>full name of the person who possessed inside</i></p>

			<i>information and in respect of whom a ban on handling it was imposed (to be indicated in the event of a violation of the requirements of Parts 2 and 3 of Article 57¹ of the Law of Ukraine “On the Natural Gas Market” and Article 11¹ of the Law of Ukraine “On the Electricity Market”</i>
15.	Information on potentially affected parties and wholesale energy products and the impact on the wholesale market.		<i>The following information shall be provided: the wholesale energy market participant, the market participant/entity whose rights and interests have been violated (name, EDRPOU code, location, for a legal entity; surname, first name, patronymic, date, and place of birth, place of residence, nationality, for an individual); the wholesale energy products and the impact on the market.</i>
16.	Impact on other contractual parties		<i>It shall be indicated which of the Energy Community Contracting Parties have been affected by the alleged abuse.</i>
17.	Details of the instituted investigation		<i>Details on the conduct of investigation of this violation shall be indicated</i>
18.	Additional information about reasons to suspect abuse		<i>Additional information, data, and facts that will be relevant to the investigation shall be indicated</i>
19.	List of confidential information		<i>It shall be indicated which of the information provided is confidential and the reasons why it has been classified as confidential.</i>
20.	A list of annexes attached.		<i>The list of annexes attached to the notice shall be specified. The applicant may attach additional files to this notice in the doc, docx, xls, xlsx, and pdf formats.</i>

If the applicants are persons professionally arranging transactions with wholesale energy products, they must attach to the notification (application) information including, but not limited to:

analysis of the behaviour;

electronic spreadsheet(s) with the analysis of the relevant transaction(s)/application(s)/behaviour(s);

copies of correspondence with wholesale market participants or other entities regarding the event;

any other measures already taken by persons professionally arranging transactions with wholesale energy products;

assessment of the impact of the event on market prices;

assessment of the benefits for a market participant from the alleged abuse;

affected country(-ies) and any related supporting evidence;

any other information that a person professionally arranging transactions in wholesale energy products considers relevant.

* If the applicant wishes to remain impersonal (anonymous), points 1-5 shall not be filled in.

Annex 2
to the Procedure for Investigating Abuses in the
Wholesale Energy Market

LIST
of information required to access the secure digital channel for data
exchange with the NEURC

Name	Registration code of the entity (for residents of Ukraine – EDRPOU code)	Person in charge (full name)	e-mail	IP address	IP address type (static/dynamic)	The telephone number of the person in charge

Annex 3
to the Procedure for Investigating Abuses in the
Wholesale Energy Market

CONCLUSION
on the investigation results

**THE SUBMISSION OF INFORMATION BY THE REGULATOR
to the Energy Community Regulatory Board (hereinafter referred to as the
ECRB) on the commencement of an investigation into abuse in the
wholesale energy market**

A. General Information

No.	Title	Information to be provided
1	Contracting Party	
2	Regulator	
3	Person(s) representing the Regulator in respect to this report and their contact details (telephone number and email address)	
4	The date of submission to the ECRB Unit:	
5	Email address of the ECRB Unit for the submission of the report	[to be provided by the ECRB Unit].
6	Other information (where necessary)	

B. Information on suspected abuse

No.	Title	Information to be provided
1	Electricity and/or gas wholesale market	
2	The Contracting Party where the suspected abuse occurred	
3	The category or type of abuse violating Regulation (EU) No. 1227/2011 of the European	

	Parliament and of the Council of 25 October 2011: -Insider trading (Article 3) -Market manipulation (Article 5)	
4	A summary of the suspected violation (see Part C below for a more detailed description)	
5	The date (and time, where possible) when the suspected abuse occurred (or when it began)	
6	Information on how the Regulator came to know of the suspected abuse	
7	Market participant(s) involved in the suspected abuse	
8	Whether the Regulator is conducting an investigation into this abuse (if the violation occurred in the Regulator's jurisdiction)	
9	Regulator's opinion on the overall impact on the market	
10	Contracting Parties to be affected (or that have been affected) by a suspected violation	
11	The Regulator's recommendation to the ECRB regarding the suspected abuse	
12	Information on whether this report (or any annex) includes any confidential or commercially sensitive information (if so, please highlight which of the data provided is confidential or commercially sensitive). Indicate why such information shall be	

	deemed to be confidential or commercially sensitive.	
13	Please list attachments/files to be included with this report.	

C. Provide more information about the suspected violation

[...]

[if necessary, provide attachments, Excel sheets, etc. in support of the violation.]



On Approval of the Procedure for Investigating Abuses in the Wholesale Energy Market
 Resolution; National Energy and Utilities Regulatory Commission of 26 September 2023 No. 1756
Adopted on 26 September 2023
Permanent address:
<https://zakon.rada.gov.ua/go/v1756874-23>

Legislation of Ukraine
 as of 8 October 2024
 in force



v1756874-23

Documents and files

- Reference document [f529578n237.docx](#) of 09 October 2023 16:40, 39 kb

Publications of the document

- **Publication on the official websites of the state authorities of Ukraine** on 28 September 2023