



NATIONAL ENERGY AND UTILITIES REGULATORY COMMISSION

RESOLUTION

29 September 2023 No. 1800

On Approval of the Procedure (Methodology) for the Determination of Penalties Imposed by the National Energy and Utilities Regulatory Commission

*{As amended by Resolutions of the
National Energy and Utilities Regulatory Commission
of 20 February 2024 No. 365,
of 28 June 2024 No. 1234,
and of 21 August 2024 No. 1513}*

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 \(Methodology\) for the Determination of Penalties Imposed by the National Energy and Utilities Regulatory Commission](#) (attached hereto) is approved.
2. This Resolution shall enter into force on the day following the day of its publication on the official website of the National Energy and Utilities Regulatory Commission.

NEURC Chair

K. Ushchapovskyi

PROCEDURE

(Methodology) for the Determination of Penalties Imposed by the National Energy and Utilities Regulatory Commission

I. General Provisions

1.1. This Procedure establishes the mechanism for determining the amount of penalties imposed by the National Energy and Utilities Regulatory Commission (hereinafter referred to as the NEURC):

- 1) for violations by licensees of legislation in the energy and utilities sectors and relevant license terms;
- 2) for abuses in the wholesale energy market.

The NEURC shall determine the amount of penalties with consideration to the requirements of the Laws of Ukraine “[On the National Energy and Utilities Regulatory Commission](#)”, “[On the Electricity Market](#)”, “[On the Natural Gas Market](#)”, “[On Heat Supply](#)” and “[On Natural Monopolies](#).”

1.2. This Procedure applies to:

1) NEURC licensees operating in the energy and utilities sectors (hereinafter referred to as “Licensees”), for calculating the amount of penalties for violating legislation in the energy and utilities sectors and of the relevant license terms under [Section II](#) of this Procedure;

2) for calculating the amount of penalties for abuses in the wholesale energy markets under [Section III](#) of this Procedure:

wholesale energy market participants (both legal entities and individual entrepreneurs) registered as wholesale energy market participants following the procedure approved by NEURC;

participants of the electricity and natural gas markets (market participants) operating or intending to operate on the wholesale energy market;

persons performing the functions of data transfer administrators or administrators of inside information platforms;

consumers of electricity and/or natural gas with a total maximum consumption capacity of 600 GWh per year and more; and

wholesale market participants’ officials.

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

“Additional benefit (potential benefit)” shall mean an additional and/or potential income or benefit in another form that the infringer was able or intended to obtain, and/or losses or expenses that he was able or intended to avoid, directly or indirectly, as a result of the violation;

“Individual mitigation” shall mean a reduction in the final amount of the penalty based on the fact that the violation was eliminated after the NEURC had detected it and started considering the liability for its commission;

“Final amount of the penalty” shall mean the finally determined amount of the penalty that is calculated within the threshold amounts of the penalty as provided by the current legislation.

Other terms used in this Procedure shall have the meanings given to them in the Law of Ukraine “On the National Energy and Utilities Regulatory Commission,” “On Natural Monopolies”, “On the Natural Gas Market”, “On the Electricity Market”, “On Heat Supply”, in the Procedure for Monitoring Compliance by Licensees Operating in the Energy and Utilities Sectors with the Laws of the Energy and Utilities Sectors and with the Licence Terms approved by the Resolution of the National Energy and Utilities Regulatory Commission of 14 June 2018 No. 428.

1.4. The competent subdivision of the NEURC, before placing the issue of whether to impose a fine (fines) for violation of the legislation in energy and utilities sectors and relevant license terms or for violation of the legislation on preventing abuse in the wholesale energy markets before a NEURC meeting held as an open hearing, shall calculate the amount of the fine for each particular violation under Sections II and III hereof.

The NEURC shall include the results of penalty assessment made under this Procedure, including the outcomes of each calculation stage with an appropriate explanation of the coefficients and adjustments (adjustment percentages) applied, in the reasoning part of the draft decision to impose a penalty.

The calculation of the amount of the penalty with a corresponding explanation of the applied coefficients and adjustments (adjustment percentages) shall be sent to the e-mail address of the licensee/participant in the wholesale energy market specified in the Register of Licenses / Register of the Wholesale Energy Market Participants on the day of publication of the draft decision on the official NEURC website.

1.5. This Procedure shall not apply when the NEURC decides to impose sanctions other than penalties provided for by the legislation in force (warnings and/or requests to remedy violations, suspension of a licence, cancellation of a licence, administrative sanctions against officials of economic entities operating in the energy and utilities sectors).

1.6. The NEURC shall be guided in particular by the principles of penalty being proportional to violation, efficiency, reasonableness, and non-discrimination when it determines the amount of penalty for violations of legislation in the energy and utilities sectors and the relevant licence terms under Section II of this Procedure and for abuses in the wholesale energy market under Section III of this Procedure.

II. Calculation of penalties imposed on NEURC licensees for violations of legislation in the energy and utilities sectors and relevant license terms

2.1. Penalty calculation stages

Calculation of penalties for violation of legislation in the energy and utilities sectors and relevant licence terms involves the following stages:

1) determining the initial penalty amount, which includes:

applying criteria for assessing the seriousness and nature of the violation;

calculating the damage caused by the licensee, or the additional benefit received, as a result of the violation (should it be possible to establish such damage or additional benefit);

{Paragraph 2 of Clause 1 of Chapter 2.1 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

- 2) adjusting the penalty amount for the duration of the violation;
- 3) adjustment of the penalty amount for mitigating and/or aggravating circumstances;
- 4) adjusting the penalty amount to ensure an appropriate level of deterrence against future violations and that the punishment is proportionate to the violation;
- 5) determining the final penalty amount and adjusting it to avoid exceeding the maximum and minimum penalty limits;
- 6) applying individual mitigating measures.

2.2. Determining the initial penalty amount

2.2.1. The initial amount of the penalty for each violation shall be determined by applying the criteria for assessing the extent and nature of the violation outlined in this Section to the actual circumstances of the violation, with the assigned number of points depending on the seriousness of the impact of such criteria, as well as the coefficient of damage or additional benefit.

2.2.2. Based on the results of evaluating each of the seriousness and nature criteria, the number of points shall be determined for the respective violation in accordance with this criterion.

2.2.3. The points awarded for each criterion shall be summed up and the resulting score shall be used to assess the seriousness and nature of the violation.

2.2.4. The initial amount of the penalty shall be calculated based on the assessment of the seriousness and the nature of the violation according to the following formula

$$P_{basic} = (XX \% \times P_{max} \times Dmg) \quad (1)$$

{Paragraph 2 of Clause 2.2.4 of Chapter 2.2 of Section II as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513}

where: $XX\%$ is the percentage of the seriousness and nature of the violation determined by assessing the violation seriousness under the procedure outlined in [Clauses 2.2.6–2.2.12](#) of this Chapter, %;

{Paragraph 2 of Clause 2.2.4 of Chapter 2.11 of Section 2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

P_{max} is the maximum penalty for the respective violation of the law and/or license terms provided for in the applicable law;

Dmg is the coefficient of inflicted damage or additional benefit (where it is possible to establish the damage and/or additional benefit), specified in [Clause 2.2.14](#) of this Chapter.

2.2.5. Criteria outlined in [Clauses 2.2.6–2.2.11](#) of this Chapter shall apply to assessing the seriousness and nature of the violation, using respective scores for the weight of each criterion.

2.2.6. The following criteria shall be used to assess the seriousness and nature of the violation:

- 1) criteria applicable to a business entity that has violated the law or license terms:

type of the Licensee;

size of the Licensee;

2) criteria directly relevant to the violation committed:

the subject of the violation;

the type of affected party;

the scale of the violation impact.

2.2.7. Under the “type of the Licensee”, criterion, licensees are grouped as follows:

1) infrastructure licensees (3 points), i.e., NEURC licensees having business in:

natural gas transmission;

{Paragraph 2 of subclause 1 of Clause 2.2.7 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

natural gas distribution;

{Paragraph 3 of subclause 1 of Clause 2.2.7 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

electricity transmission;

electricity distribution (including small distribution systems);

centralized water supply and centralized sewerage in volumes exceeding the level set out in the license terms;

heat energy generation at combined heat and power plants, thermal power plants, nuclear power plants, and co-generation units (where such a producer has no competitors in its operating territory);

performing the functions of a market operator;

performing the functions of the guaranteed buyer;

natural gas storage (injection, withdrawal);

provision of LNG installation services;

transportation of oil, petroleum products, and other substances by pipelines.

{Clause 2.2.7 of Chapter 2.2 is supplemented with a new paragraph according to Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2) non-infrastructure licensees (2 points), i.e., licensees having business in:

electricity generation;

energy storage;

aggregation;

supply of electricity to end consumers;

resale of electricity (trading);

natural gas supply; and

{Paragraph 7 of subclause 2 of Clause 2.2.7 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365 }

heat generation at combined heat and power plants, thermal power plants, nuclear power plants, and co-generation units (where such a producer has competitors in its operating territory).

The type of a NEURC Licensee shall be determined based on the activity carried out by the NEURC Licensee, in particular, based on the licenses received by it, and generally shall be a permanent category within the period of such licensed activity.

The type of NEURC licensee may change, should there be changes in its activity type, for example, in the event of obtaining a license for another activity type or suspension/cancellation of the current license.

2.2.8. Under the “size of the licensee” criterion, licensees are grouped as follows:

large licensees (6 points);

mid-sized licensees (4 points); and

small licensees (1 point).

The detailed classification under the “size of the licensee” criterion shall be performed under [Annex 2](#) to this Procedure.

2.2.9. The following types of violations shall be defined according to the “subject of the violation” criterion:

1) violations related to administrative aspects of licensed activities:

violations of personnel requirements for conducting business activities (2 points);

violations regarding the submission of reports, the nature, process, timing and form of which are established by NEURC regulations and relevant license terms (2 points);

{Paragraph 3 of subclause 1 of Clause 2.2.9 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365 }

violations related to the means used to conduct licensed activities (3 points);

violations of separation and independence (3 points);

other violations related to administrative aspects of the licensed activity (2 points);

2) violations in implementing decisions adopted following inspections (3 points);

3) violations related to the handling of information (failure to provide information and/or intentional provision of incorrect information in response to a lawful request from NEURC) (3 points);

{Subclause 3 of Clause 2.2.9 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365 }

4) violation of conducting commercial activities subject to licensing when the license is suspended (3 points);

5) violation of laws/rules/technical standards, established modes of operation of the licensed activity (3 points);

6) violation of deadlines for submission and implementation of investment programmes and development plans and for the upgrade of fixed assets (3 points);

{Subclause 6 of Clause 2.2.9 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

7) violations related to tariffs/prices/fees for services, or the targeted use of funds provided for in the tariff (3 points);

8) violations in the provision of services and/or interaction with consumers/market participants/third parties (3 points);

9) violations related to the conclusion of/compliance with contracts/acts (2 points);

10) violation of laws on performing public service obligations (1 point);

11) violations related to implementing regulations and decisions of other state authorities, and other violations, the investigation of which falls within the competence of NEURC (2 points).

In the event that the violation being assessed falls under more than one type of violation, and it is impossible to determine the type that matches the violation the best, the type of violation with the highest score (out of those types applicable to the violation being assessed) will be used for the purposes of assessing the seriousness.

2.2.10. Parties affected by the violation can be the following:

NEURC licensees and market participants;

consumers, service users; and

the State (including state agencies), and local governments.

Each of these types of affected parties shall be rated separately at 2 points. In the event there are several parties affected by the violation, points shall be summed up (up to a maximum of 6 points). If there is no affected party, the “Type of affected party” and “Scale of the violation impact” criteria shall be scored at 0.

{Clause 2.2.10 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2.2.11. The “scale of the violation impact” criterion defines violations affecting:

from 1 to 10 licensees, market participants, consumers, service users, public authorities, and local governments (1 point);

{Paragraph 2 of Clause 2.2.11 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

10 (inclusive) to 99 licensees, market participants, consumers, service users, public authorities, and local governments (2 points);

{Paragraph 3 of Clause 2.2.11 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

100 or more licensees, market participants, consumers, service users, public authorities, and local governments (3 points).

{Paragraph 4 of Clause 2.2.11 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2.2.12. The values of the scores assigned to the relevant criteria outlined in Clauses 2.2.7–2.2.11 of this Chapter shall be summarized. The resulting score shall constitute an assessment of the seriousness

and nature of the violation and define the percentages of the maximum penalty amount provided for by applicable law, applied for the purposes of Formula 1, as outlined below.

The total score of the seriousness and nature assessment (points)	Percentage related to the seriousness and the nature of the violation
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5–8	2%
9–12	4%
13–15	5%
16–18	9%
19–21	15%

{Clause 2.2.12 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2.2.13. The NEURC shall cease calculating the penalty amount and apply other types of sanctions provided for by the current legislation if the total score of the seriousness and nature assessment of the violation calculated under **Clause 2.2.12** of this Chapter does not exceed 11.

The provisions of this clause shall not apply to the violation defined in **subclause 2** of Clause 2.2.9 of this Procedure.

{Clause 2.2.13 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2.2.14. If there is damage caused to consumers, service users, licensees, the State and/or additional benefits received by the Licensee as a result of the violation, and if it is possible to estimate them, the NEURC will apply the following coefficients to calculate the initial penalty amount

{Paragraph 1 of Clause 2.2.14 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

Damages inflicted/additional benefits received	Coefficient
No damages inflicted/additional benefits received (or it's impossible to estimate them)	1
from UAH 1 to UAH 1,000,000	1.01
from UAH 1,000,001 to UAH 5,000,000	1.03
from UAH 5,000,001 to UAH 10,000,000	1.04
from UAH 10,000,001 to UAH 50,000,000	1.06

from UAH 50,000,001 to UAH 100,000,000	1.08
from UAH 100,000,001 to UAH 200,000,000	1.1
from UAH 200,000,001 up to UAH 400,000,000	1.15
from UAH 400,000,001 to UAH 600,000,000	1.20
from UAH 600,000,001 to UAH 1,000,000,000	1.30
from UAH 1,000,000,001 to UAH 5,000,000,000	1.50
from UAH 5,000,000,001 to UAH 9,000,000,000	1.70
over UAH 9,000,000,000	2

{Table in Clause 2.2.14 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

If there is no damage inflicted or additional benefit received as a result of the violation or if they cannot be estimated, the coefficient is 1. Any damages or additional benefits shall be estimated following the algorithm defined in [Annex 2](#) to this Procedure.

The amount of excess or shortfall in income (savings/excess spending) from the relevant licensed activity determined pursuant to the Procedure for Monitoring Compliance by Licensees Operating in the Energy and Utilities Sectors with the Law in Effect in the Relevant Areas and License Terms approved by NEURC Resolution No. 428 of 14 June 2018 as part of the audit of licensees' compliance with the relevant tariff structures and the implementation by them of investment programmes, shall be not deemed to be an additional benefit if the NEURC, based on the audit results, intends to decide to set (change) tariffs for goods (services) for the relevant licensee, in particular, to reduce the effective tariff by excluding funds for the licensee's non-compliance with the tariff structure and/or failure to implement (under-implementation of) the investment programme or to consider these funds as a source of funding for the investment programme.

{Paragraph 3 of Clause 2.2.14 of Chapter 2.2 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

Should the violation considered by the NEURC be classified by applying provisions of several normative legal acts, but be in essence one (single) action (inaction), such violation should be considered as one (single) violation.

2.3. Adjustment of penalty amount for the duration of the violation

2.3.1. If, in the course of state monitoring of Licensees' compliance with the law and/or license terms, the NEURC reveals a violation that has been ongoing for a certain period (term), the NEURC shall adjust the initial penalty amount calculated in accordance with [Clause 2.2.4](#) of Chapter 2.2 of this Section for the duration of the violation. It shall be adjusted as follows:

$$P_{\text{time adj}} = P_{\text{basic}} + (P_{\text{basic}} \times t_c \times n) \quad (2)$$

where: $P_{\text{time adj}}$ is the penalty amount adjusted for the duration of the violation;

P_{basic} is the initial penalty amount calculated under [Clause 2.2.4](#) of Chapter 2.2 of this Section;

t_c is the coefficient of 0.001;

n is the number of calendar days during which the violation has lasted or is ongoing.

2.3.2. The number of calendar days that the violation lasted shall be calculated from the date of the actual commencement of actions/inaction constituting a violation of laws applicable in the energy and/or utilities sectors and/or the relevant license terms, until the following date:

1) the date of actual cessation of actions/inaction constituting a violation, or

2) the date when the ongoing violation was detected in the course of an activity, which was a part of state monitoring of the licensees' compliance with the legislation and/or license terms.

2.3.3. The maximum amount of adjustment for the duration of the violation shall not exceed 50% of the initial penalty amount calculated under [Clause 2.2.4](#) of Chapter 2.2 of this Section.

2.4. Penalty adjustment for mitigating and/or aggravating circumstances

2.4.1. If the event of mitigating and/or aggravating circumstances, the NEURC shall calculate the penalty for the violation by adjusting (reducing or increasing) the amount of the penalty that has been adjusted (where appropriate) under [Clause 2.3.1](#) of Chapter 2.3 of this Section.

2.4.2. Penalty amount shall be adjusted for mitigating and/or aggravating circumstances according to the following formula

$$P_{\text{conditions}} = P_{\text{time adj}} - (P_{\text{time adj}} \times \text{ext \%}) + (P_{\text{time adj}} \times \text{aggr \%}) \quad (3)$$

{Paragraph 2 of Clause 2.4.2 of Chapter 2.4 of Section II as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

where: $P_{\text{conditions}}$ is the penalty amount adjusted for mitigating and/or aggravating circumstances;

$P_{\text{time adj}}$ is the penalty amount adjusted for the duration of the violation under [Clause 2.3.1](#) of Chapter 2.3 of this Section;

ext \% is the coefficient (adjustment percentage) of mitigating circumstances around the violation;

{Paragraph 5 of Clause 2.4.2 of Chapter 2.4 of Section II as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

aggr \% is the coefficient (adjustment percentage) of aggravating circumstances of the violation.

{Paragraph 6 of Clause 2.4.2 of Chapter 2.4 of Section II as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

2.4.3. The NEURC shall determine coefficients (adjustment percentages) for mitigating and aggravating circumstances for each particular violation in each case, depending on the presence/absence of relevant circumstances or a combination of relevant circumstances.

2.4.4. The maximum coefficient (adjustment percentage) for the mitigating circumstances of the violation shall not exceed 60%.

2.4.5. The maximum coefficient (adjustment percentage) for aggravating circumstances of the violation shall not exceed 60%.

2.4.6. Mitigating circumstances of a violation are:

- 1) infringer's behaviour aimed at reducing the negative consequences of the violation (adjustment percentage of 30%);
- 2) an immediate cessation of the violation upon detection (adjustment percentage of 20%);
- 3) facilitating the detection of violations by the NEURC (adjustment percentage of 10%).

2.4.7. Aggravating circumstances of a violation are:

- 1) infringer's behaviour aimed at concealing the violation and its negative consequences (adjustment percentage of 30%);
- 2) infringer's behaviour aimed at continuing the violation after the NEURC became aware of it (adjustment percentage of 20%);
- 3) Repeated violation (adjustment percentage of 10%).

2.5. Penalty adjustment to secure an appropriate level of deterrence against future violations and to ensure that the punishment is proportionate to the violation

2.5.1. To comply with the proportionality principle in determining penalties for violations, the NEURC may:

- 1) increase the penalty amount calculated and adjusted under [Chapters 2.2–2.4](#) of this Section by 100% if it is disproportionate to the violation committed.

The disproportion between the calculated amount of the penalty and the committed violation shall be determined in each individual case of the offence in compliance with the principle of reasonableness implying, inter alia, that all the factual circumstances of each individual violation should be considered. For violations in respect of which it is possible to estimate the extent of the damage/benefit, the criterion of disproportionality may be applied if the amount of the calculated damage/benefit exceeds the amount of the calculated penalty by over 20 times. For violations in respect of which it is impossible to estimate inflicted damage/received benefit, the criterion of disproportion shall be determined based on the actual circumstances of each individual violation;

- 2) reduce (in exceptional cases) the penalty amount calculated and adjusted under [Chapters 2.2–2.4](#) of this Section to 80% if paying the entire penalty is reasonably impossible or will result in a difficult financial situation and further insolvency of the infringer, or the amount of such calculated penalty is disproportional to the seriousness of the offence/degree of damage caused.

A reduction of up to 100% may be applied in the event of a violation committed for reasons beyond the control of the licensee, due to the armed aggression of the Russian Federation against Ukraine, due to the fault of a third party, in particular, due to the failure of other parties to fulfil their obligations to the licensee. Such being the case, it is mandatory that these circumstances be proven and documents confirming that the licensee has taken all possible actions to prevent the violation and to resolve the existing problem be provided. The following may serve as the documents mentioned above:

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 of Section II is supplemented with a new paragraph 2 according to the Resolution of the National Energy and Utilities Regulatory Commission of 28 June 2024 No. 1234}

a court decision held in favour of the Licensee that has entered into force;

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 of Section II is supplemented with a new paragraph 3 according to the Resolution of the National Energy and Utilities Regulatory Commission of 28 June 2024 No. 1234}

a decision made as a result of a pre-trial dispute settlement;

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 of Section II is supplemented with a new paragraph 4 according to the Resolution of the National Energy and Utilities Regulatory Commission of 28 June 2024 No. 1234}

intercompany reconciliation statements, statements of the same-type liability offset, debt rescheduling agreements, deeds, primary and other documents confirming a third party's debt to the Licensee.

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 of Section II is supplemented with a new paragraph 5 according to the Resolution of the National Energy and Utilities Regulatory Commission of 28 June 2024 No. 1234}

In addition, the NEURC shall apply a reduction in the penalty amount if the violation and its consequences have been completely eliminated by the violator:

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 is supplemented with a new paragraph according to the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

until deciding to initiate an audit (100% reduction);

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 is supplemented with a new paragraph according to the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

until the last day of the relevant inspection period (50% reduction);

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 is supplemented with a new paragraph according to the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

before Licensee's liability is considered at the NEURC meeting (30% reduction);"

{Subclause 2 of Clause 2.5.1 of Chapter 2.5 is supplemented with a new paragraph according to the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2.5.2. When adjusting the penalty under **Clause 2.5.1** of this Chapter, the NEURC shall take into account the capacity of the market participant, its financial position at the time of the violation and for preceding financial years, the total number of violations (including the number of similar offences) committed by the infringer during the period under review, as well as the amount of damage inflicted and/or additional benefit received as a result of the violation (if such additional benefit or damage has been estimated).

2.5.3. In order to ensure an adequate level of deterrence against future violations (compliance with the principle of effectiveness of sanctions), NEURC may increase the amount of the penalty calculated and adjusted under **Chapters 2.2 – 2.4** of this Section by up to 50% if NEURC has reasons to believe that the calculated amount of the penalty will not deter the infringer from committing these violations in the future. These reasons may include, in particular, the financial position of the infringer, the anticipated amount of benefits arising from the violation, and the fact of committing similar violations in the past.

2.6. Determining the final penalty amount and adjusting the penalty amount to avoid exceeding the maximum and minimum penalty limits

2.6.1. The final penalty for the offence shall be the penalty calculated and adjusted under **Chapters 2.2–2.5** of this Section.

2.6.2. The total penalty amount shall not exceed the maximum amount of penalties for offences provided for by the Ukrainian legislation in force, in particular, the Laws of Ukraine “**On the Electricity Market**”, “**On the Natural Gas Market**”, “**On Heat Supply**”, and “**On Natural Monopolies**.”

2.6.3. If the total amount of the penalty calculated and adjusted under **Chapters 2.2–2.5** of this Section exceeds the maximum penalty amount provided by the applicable legislation of Ukraine, the NEURC shall adjust the total penalty to the amount not exceeding the maximum penalty for the offence provided for by the applicable legislation of Ukraine.

2.6.4. If the total penalty amount calculated and adjusted under **Chapters 2.2–2.5** of this Section is less than the minimum penalty prescribed by law, NEURC shall not impose a penalty but apply other sanctions.

2.7. Application of individual mitigations

2.7.1. If the Licensee takes action to eliminate the violation after it is detected, the NEURC may apply individual mitigation and further reduce the total penalty but not more than by 50% of the total penalty amount. Actions to be taken by the Licensee to eliminate the violation may include, in particular:

{Paragraph 1 of Clause 2.7.1 of Chapter 2.7 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

1) providing the NEURC with information indicating that the violation has been resolved or eliminated as soon as possible;

{Subclause 1 of Clause 2.7.1 of Chapter 2.7 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2) independent compensation of damages to the affected parties after the violation is detected, but before the NEURC decides to impose a sanction in the form of a penalty;

3) voluntary refusal to accept additional benefits received as a result of the violation and its return to all affected parties;

4) active cooperation of the infringer with the NEURC, in particular, assistance in clarifying all the circumstances and consequences of the violation.

5) providing the NEURC with information indicating changes in the Licensee’s operations aimed at preventing similar violations in the future (increasing the number of employees, optimising processes, etc.) and providing evidence, if available, confirming that the implemented changes have been effective.

{Clause 2.7.1 of Chapter 2.7 is supplemented with a new subclause according to the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

2.7.2. If, after applying individual mitigations, the penalty for the violation is less than the minimum penalty provided for by law, the NEURC shall not impose a penalty but shall issue a sanction in the form of a warning and/or an order to remedy the violations.

{Chapter 2.7 is supplemented with a new clause according to the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

III. Calculation of NEURC penalties for wholesale energy market abuse

3.1. Stages of calculating the amount of penalties for abuses in the wholesale energy market

Calculation of penalties for abuses in the wholesale energy market shall include the following stages:

- 1) determining the initial penalty amount depending on the nature and seriousness of the abuse and based on the damage caused by the entity under investigation and/or the additional benefits received by it (where such damage or additional benefits can be established);
- 2) adjustment of the penalty amount for the duration of the abuse;
- 3) adjustment of the penalty amount for mitigating and/or aggravating circumstances;
- 4) adjustment of the penalty amount to ensure an appropriate level of deterrence against future abuses and proportionality of punishment and abuse;
- 5) determining the final penalty amount and adjusting the penalty amount to avoid exceeding the maximum penalty limit.

3.2. Determining the initial penalty amount

3.2.1. The initial amount of the penalty for the relevant abuse shall be determined by applying to the actual circumstances of the abuse the criteria for assessing the nature and the seriousness of the abuse defined in this section, as well as the damage caused or the additional benefit obtained, which are assigned an appropriate percentage depending on the seriousness of the abuse.

3.2.2. After evaluating each criterion of the abuse seriousness, the percentage corresponding to the relevant abuse shall be determined based on this criterion.

3.2.3. The initial penalty amount shall be calculated using the formula

$$P_{basic} = ((P_{max} \times XX \%) + (P_{Dmg} \times Dmg \%)) \times Ch \quad (4)$$

{Paragraph 2 of Clause 3.2.3 of Chapter 3.2 of Section III as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513}

where $XX \%$ is the percentage of the seriousness of the abuse calculated based on the evaluation of the seriousness of the abuse carried out under the procedure specified in [Clause 3.2.5](#) of this Chapter;

{Paragraph 3 of Clause 3.2.3 of Chapter 3.2 of Section II as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

P_{max} is the maximum penalty for an abuse in the wholesale energy market provided for by the current legislation;

P_{Dmg} is the amount of any additional benefit or damage (should there be an opportunity to estimate such benefit or damage);

$Dmg \%$ is the percentage of the damage caused or additional benefit received (should there be an opportunity to estimate such benefit or damage), specified in [Clause 3.2.6](#) of this Chapter, %;

{Paragraph 6 of Clause 3.2.3 of Chapter 3.2 of Section III as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

Ch is the coefficient reflecting the nature of the abuse committed, as specified in [Clause 3.2.7](#) of this Chapter.

3.2.4. Depending on the type of abuse committed in the wholesale energy market, the appropriate percentage related to abuse seriousness shall be applied.

3.2.5. The percentage amount assigned to the type of abuse in the wholesale energy market constitutes an assessment of the seriousness of the abuse and determines percentages from the maximum amount of the penalty provided for by the current legislation, which are applied for the purposes of Formula 4.

Type of abuse	%
Execution of transactions with wholesale energy products without registering as a participant in the wholesale energy market	1
Violation of established restrictions on the use of inside information	10
Manipulation of the wholesale energy market	10
Attempted manipulation of the wholesale energy market	8
Non-disclosure of inside information or its disclosure in non-compliance with respective requirements.	5

3.2.6. Should there be damage caused by the entity under investigation or additional benefits received by it as a result of the relevant type of abuse, and should it be possible to estimate them, the NEURC shall take cognizance of the amount of damage caused by the entity under investigation and/or additional benefits received by it. For the purpose of calculating the initial penalty amount, the following percentages shall be applied to the amount of damage caused by the entity under investigation or to the additional benefits obtained by it as a result of the abuse of the relevant type:

Type of abuse	%
Execution of transactions with wholesale energy products without registering as a participant in the wholesale energy market	15
Violation of established restrictions on the use of inside information	25
Manipulation of the wholesale energy market	25
Attempted manipulation of the wholesale energy market	20
Non-disclosure of inside information or its disclosure in non-compliance with respective requirements	20

Should the estimate of damages inflicted or additional benefits received by the entity under investigation as a result of the abuse be lacking or impossible to perform, this element shall be not incorporated in the calculation of the initial penalty amount.

If there is damage caused by the entity under investigation and additional benefit received by it as a result of the abuse of the relevant type, the calculation shall be based on the amount of damage or additional benefit, whichever of them is greater.

3.2.7. Depending on the nature of the abuse, the following coefficients shall be applied to increase the initial penalty amount:

- 1) the coefficient shall be 1 if abuse was committed without intent;
- 2) the coefficient shall be 2 in the event of deliberately setting the scene or taking actions for abuse or failure to take action to implement or comply with applicable law.

3.3. Adjustment of penalty amount for the duration of the abuse

3.3.1. The initial amount of the penalty calculated under [clause 3.2.3](#) of Chapter 3.2 of this Section shall be adjusted for the duration of the abuse. It shall be adjusted as follows:

$$P_{\text{time adj}} = P_{\text{basic}} + (P_{\text{basic}} \times t_c \times n) \quad (5)$$

where $P_{\text{time adj}}$ is the penalty amount adjusted for the abuse duration;

P_{basic} is initial penalty amount calculated under [Clause 3.2.3](#) of Chapter 3.2 of this Section;

t_c is the coefficient of 0.001;

n is the calculation period during which the abuse lasted or is ongoing, days.

3.3.2. The period during which the abuse lasted/is continuing shall be determined from the date of the actual commencement of actions/inaction until:

- 1) the date of actual cessation of actions/inactions constituting an abuse, or
- 2) the date on which the findings of the investigation were drawn up, in the event of ongoing abuse.

3.3.3. The maximum percentage of adjustment for the abuse duration shall not exceed 50% of the initial penalty amount calculated under [Clause 3.2.3](#) of Chapter 3.2 of this Section.

3.4. Penalty adjustment for mitigating and aggravating circumstances

3.4.1. In the presence of mitigating and/or aggravating circumstances, the NEURC shall reduce or increase the penalty for abuse, respectively.

3.4.2. The penalty amount adjusted under [Clause 3.3.1](#) of Chapter 3.3 of this Section shall be adjusted for mitigating and aggravating circumstances according to the following formula

$$P_{\text{conditions}} = P_{\text{time adj}} - (P_{\text{time adj}} \times \text{ext } \%) + (P_{\text{time adj}} \times \text{aggr } \%) \quad (6)$$

{Paragraph 2 of Clause 3.4.2 of Chapter 3.4 of Section III as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513}

where $P_{\text{conditions}}$ is the amount of penalty adjusted for mitigating and aggravating circumstances;

$P_{\text{time adj}}$ is the penalty amount, adjusted for the duration of the abuse, under [Clause 3.3.1](#) of Chapter 3.3 of this Section;

$ext\%$ is mitigating circumstances of the abuse, %;

{Paragraph 5 of Clause 3.4.2 of Chapter 3.4 of Section III as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

$aggr\%$ is aggravating circumstances of the abuse, %.

{Paragraph 6 of Clause 3.4.2 of Chapter 3.4 of Section III as amended by Resolution of the National Energy and Utilities Regulatory Commission of 21 August 2024 No. 1513 }

3.4.3. The NEURC shall determine the percentage related to mitigating and aggravating circumstances for each particular abuse in each case, depending on the presence/absence of the relevant circumstances or a combination of the relevant circumstances.

3.4.4. The maximum percentage related to the mitigating circumstances of the abuse shall not exceed 50%.

3.4.5. The maximum percentage related to the aggravating circumstances of the abuse shall not exceed 50%.

3.4.6. The mitigating circumstances of an abuse are as follows:

1) a voluntary compensation for damage caused to wholesale energy market participants/consumers before the abuse is detected (30%);

2) actions of the entity under investigation taken before the abuse was detected, indicating a desire to eliminate the abuse, its negative consequences, and the circumstances that caused the abuse (20%);

3) recognizing the abuse and stopping it after it was detected (10%);

4) self-reporting of the fact of abuse before the NEURC's investigation (10%).

3.4.7. The aggravating circumstances of an abuse are as follows:

1) an infringer's behaviour aimed at concealing the violation and its negative consequences (20%);

2) repeated abuse in the wholesale energy market (15%);

8) continuation of the violation after the NEURC became aware of the abuse (15%).

The repeated commission of an offence in the wholesale energy market shall be considered the commission of the same offence (abuse of the same type).

3.5. Adjustment of the penalty amount to ensure an appropriate level of deterrence against future abuses and proportionality of punishment and abuse

3.5.1. In order to comply with the principle of proportionality in determining the amount of penalty for abuse, the NEURC may:

1) increase the penalty calculated and adjusted under [Chapters 3.2–3.4](#) of this Section by 100% if it is disproportionate to the violation committed.

The disproportion between the calculated amount of the penalty and the committed violation shall be determined in each individual case of the offence in compliance with the principle of reasonableness implying, inter alia, that all the factual circumstances of each individual violation should be considered. For violations in respect of which it is possible to estimate the extent of the damage/benefit, the criterion of disproportionality may be applied if the amount of the calculated damage/benefit exceeds the amount of the calculated penalty by over 10 times. For violations in respect of which it is impossible to estimate inflicted damage/received benefit, the criterion of disproportion shall be determined based on the actual circumstances of each individual violation;

2) reduce (in exceptional cases) the penalty amount calculated and adjusted under [Chapters 3.2–3.4](#) of this Section to 80% if paying the entire penalty is reasonably impossible or will result in a difficult financial situation and further insolvency of the infringer, or the amount of such calculated penalty is disproportional to the seriousness of the abuse/degree of damage caused.

3.5.2. When adjusting the amount of the penalty under the provisions of [Section 3.5.1](#) of this Chapter, the NEURC shall take into account the total number of violations (including the number of similar violations) committed by the entity under investigation during the period that is being investigated, as well as the amount of damages inflicted and/or additional benefits received as a result of the violation (if such additional benefits or damages are estimated).

3.5.3. In order to ensure an adequate level of deterrence against future abuses (compliance with the principle of effectiveness of sanctions), NEURC may increase the amount of the penalty calculated and adjusted under [Chapters 3.2 – 3.4](#) of this Section by up to 50% if NEURC has reasons to believe that the calculated amount of the penalty will not deter the infringer from committing abuse in the future. These reasons may include, in particular, the financial position of the infringer, the anticipated amount of benefits arising from the abuse, and the fact of committing similar abuses in the past.

3.6. Determining the final penalty amount and adjusting the penalty amount to avoid exceeding the maximum penalty limit

3.6.1. The final penalty for the abuse shall be the penalty calculated and adjusted under [Chapters 3.2–3.5](#) of this Section.

3.6.2. The maximum penalty amount for abuse as defined in [Article 77](#) of the Law of Ukraine “On the Electricity Market” or [Article 59](#) of the Law of Ukraine “On the Natural Gas Market”, regardless of the maximum amount of the penalty, shall not exceed 10% of the annual income (revenue) of the wholesale energy market participant from the sale of products (goods, works, services) in the wholesale energy market.

3.6.3. If the total amount of the penalty calculated and adjusted under [Chapters 3.2–3.5](#) of this Section exceeds the maximum amount of the penalty provided for in [Article 77](#) of the Law of Ukraine “On the Electric Power Market” or [Article 59](#) of the Law of Ukraine “On the Natural Gas Market”, the NEURC shall adjust the total amount of the penalty to the maximum amount of the penalty.

**Director of the Department
of Licensing Control**

Ya. Zeleniuk

THE “SIZE OF THE LICENSEE” CRITERION for assessing the seriousness and nature of the violation

Licensees shall be grouped by the “size of the licensee” criterion as follows:

1. With respect to licensees engaged in the commercial generation of electricity:

1) large licensees are the licensees that comply with at least one of the following parameters:

they have an installed capacity of electrical installations of 100 MW or more as of the end of the audited period and generated 500,000,000 kWh or more of electricity in the year preceding the year of the audit or as of the date of the violation;

they have an installed capacity of electrical installations of 100 MW or more as of the end of the audited period and have income (revenue) of UAH 500,000,000 or more for the year preceding the year of the audit or as of the date of the violation;

they have generated 500,000,000 kWh or more of electricity and have income (revenue) of UAH 500,000,000 or more for the year preceding the year of the audit or as of the date of the violation;

1) small licensees are the licensees that comply with at least one of the following parameters:

they have an installed capacity of electrical installations of up to 20 MW as of the end of the audited period and generated up to 100,000,000 kWh or more of electricity in the year preceding the year of the audit or as of the date of the violation;

they have an installed capacity of electrical installations of up to 20 MW as of the end of the audited period and have an income (revenue) of up to UAH 20,000,000 for the year preceding the year of the audit or as of the date of the violation;

they have generated up to 100,000,000 kWh of electricity and have an income (revenue) of UAH 20,000,000 for the year preceding the year of the audit or as of the date of the violation;

3) All other licensees are medium-sized.

2. With respect to licensees engaged in energy storage activities and licensees engaged in aggregation activities:

1) large licensees are licensees with an installed capacity of electrical installations of 20 MW or more as of the end of the audited period;

2) medium-size licensees are licensees with an installed capacity of electrical installations of 5 to 20 MW as of the end of the audited period;

3) small licensees are the licensees with an installed capacity of electrical installations of up to 5 MW as of the end of the audited period.

3. With respect to licensees engaged in electricity distribution and electricity distribution through small distribution systems:

1) large licensees are the licensees that comply with at least one of the following parameters:

they have over 750,000 connected consumers (inclusive) and a volume of electricity distribution of over 2,000 million kWh (inclusive) for the year preceding the year of the audit or as of the date of the violation;

they have over 750,000 connected consumers (inclusive) and a revenue (income) of over UAH 1,500 million (inclusive) for the year preceding the year of the audit or as of the date of the violation;

they have over 2,000 million kWh (inclusive) of electricity distribution for the year preceding the year of the audit or as of the date of the violation, and over UAH 1,500 million (inclusive) of revenue (income) for the year preceding the year of the audit or as of the date of the violation;

1) small licensees are the licensees that comply with at least one of the following parameters:

they have less than 75,000 connected consumers and a volume of electricity distribution of up to 500 million kWh for the year preceding the year of the audit or as of the date of the violation;

they have less than 75,000 connected consumers and a revenue (income) of up to UAH 500,000 for the year preceding the year of the audit or as of the date of the violation;

they have up to 500 million kWh of electricity distribution for the year preceding the year of the audit or as of the date of the violation, and up to UAH 500,000 of revenue (income) for the year preceding the year of the audit or as of the date of the violation;

3) All other licensees are medium-sized.

4. With respect to licensees engaged in economic activities related to the supply or resale of electricity (trading activities):

1) large licensees are the licensees with 1000 million kWh or more of electricity supply or resale for the year preceding the year of the audit or as of the date of the violation;

2) medium-sized licensees are the licensees with 100 to 1000 million kWh of electricity supply or resale for the year preceding the year of the audit or as of the date of the violation;

2) small licensees are the licensees with less than 100 million kWh of electricity supply or resale for the year preceding the year of the audit or as of the date of the violation;

5. With respect to licensees engaged in economic activities related to natural gas distribution:

1) large licensees are the licensees with over 400,000 connected consumers and over 200 million cubic meters of natural gas distribution or the equivalent volume measured in energy units using the coefficient provided for by law for the year preceding the year of the audit or as of the date of the violation;

1) small licensees are the licensees with less than 50,000 connected consumers and up to 20 million cubic meters of natural gas distribution or the equivalent volume measured in energy units using the coefficient provided for by law for the year preceding the year of the audit or as of the date of the violation;

3) All other licensees are medium-sized.

6. With respect to licensees engaged in economic activities related to natural gas supply:

1) large licensees are the licensees with more than 100 million cubic meters of natural gas supply or the equivalent volume measured in energy units using the coefficient provided for by law for the year preceding the year of the audit or as of the date of the violation;

1) medium-size licensees are the licensees with between 20 million (inclusive) and 100 million cubic meters of natural gas supply or the equivalent volume measured in energy units using the coefficient provided for by law for the year preceding the year of the audit or as of the date of the violation;

1) small licensees are the licensees with up to 20 million cubic meters of natural gas supply or the equivalent volume measured in energy units using the coefficient provided for by law for the year preceding the year of the audit or as of the date of the violation;

7. With respect to licensees engaged in centralised water supply and centralised sewerage:

1) large licensees are the licensees with a volume of centralized water supply and centralized sewerage services exceeding 50,000,000 cubic meters for the year preceding the year of the audit or as of the date of the violation;

1) large licensees are the licensees with a volume of centralized water supply and centralized sewerage services between 10,000 and 50,000 cubic meters (inclusive) for the year preceding the year of the audit or as of the date of the violation;

1) small licensees are the licensees with a volume of centralized water supply and centralized sewerage services up to 10,000 cubic meters (inclusive) for the year preceding the year of the audit or as of the date of the violation;

{Paragraph 8 is excluded based on the Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

8. Licensees engaged in the commercial activities of electricity transmission, performing the functions of the guaranteed buyer, performing the functions of a market operator, engaged in commercial transmission and storage of natural gas, commercial heat energy generation at thermal power plants, combined heat and thermal power plants, nuclear power plants, and co-generation units, the transmission of oil, oil products and other substances through pipelines shall be classified as large licensees of the NEURC.

9. If NEURC cannot determine the category based on the “size of the licensee” criterion due to the licensee’s failure to submit the reporting documents required to be submitted by laws and regulations, such licensee shall be classified as a large licensee.

{Annex 1 as amended by Resolution of the National Energy and Utilities Regulatory Commission of 20 February 2024 No. 365}

Annex 2
to the Procedure (Methodology) for the
Determination of
Penalties Imposed by the
National
Energy and
Utilities Regulatory Commission
(Clause 2.2.14 of Chapter 2.2 of Section II)

ALGORITHM
for calculating the damage caused to market participants, consumers or
licensees, or additional benefits received by the licensee as a result of
violations of legislation in the energy and utilities sectors and relevant
license terms

1. In the event of damage to market participants, consumers, licensees, or additional benefits received by the licensee as a result of a violation of the legislation in the energy and utilities sector and relevant license terms, and the presence of objective opportunities to determine the material nature of the consequences of such illegal actions, the competent subdivision of the NEURC shall, in order to determine the coefficient to be applied in calculating the initial penalty amount, calculate the damage caused to consumers or licensees or additional benefits received by the licensee as a result of the violation under the following algorithm:

1) type identification (damage caused to the consumer or other licensee, or additional benefit received);

Identification of the nature (damaged appliances/equipment/buildings of consumers, the unlawful additional profit received and reflected in the reporting, unpaid guaranteed compensation, etc.);

Identification of circumstances/causes (licensee's fault, force majeure, prior collusion of the licensee with other entities, etc.);

identification of the group of affected entities (consumers or other licensees) and the consequences of the licensee's wrongful acts that resulted in damage or additional benefit;

2) collection of initial data and information to estimate the damage or additional benefit resulting from the violation (documented by the authorised bodies and/or business entities, for example, by expert opinions, acts, extracts from statements, certificates, official reports or other documents, cost-related and/or technical parameters of the damage or additional benefit), including sources of information on the inflicted damage or received additional benefit (a complaint/claim of a consumer or market participant, detection by the NEURC in the course of its audit, etc.);

3) comparing the information obtained following the NEURC's inspection or processing of applications and petitions of consumers or other market participants with the information available in official documents, in particular, primary documents of the violator and other NEURC licensees (financial statements, contracts, monitoring reports, acceptance certificates, expert opinions, committee acts, etc.);

4) assessment of the sufficiency, relevance, and reliability of the documents and evidence being analyzed;

5) the NEURC shall initiate, where necessary, an expert examination, and additional requests for information/documents/evidence to estimate the damage caused to licensees or additional benefits received as a result of the violation;

6) the final amount of damages or additional benefits is determined by adding the values obtained as a result of the actions taken pursuant to this subclause, and damages or additional benefits are comprehensively calculated, including but not limited to the use of the following calculation methods:

The method of direct calculation of additional benefits or damage based on the analysis of primary documents, invoices, and other supporting documents and determination of the amount of additional benefit/damage through additional calculations performed by the NEURC under the applicable laws;

The estimation method for calculating additional benefit or damage, which includes: a) determining the cost of reproduction (replacement) of the damaged objects; b) determining the market value of similar objects that can be equivalent to them in terms of their technical, consumer, functional and economic indicators; c) determining the difference between the financial results of the Licensee's activities obtained as a result of emergence of circumstances related to the violation and in the absence of such circumstances;

using additional information (if any) related to the damage inflicted and/or additional benefit received;

determining the final extent of damage or amount of additional benefit by adding the values obtained following the actions taken under this subclause.

2. The NEURC subdivision shall establish the amount of damage caused to market participants or additional benefits received by the licensee as a result of the violation solely based on reliable and official data, information and documents.



On Approval of the Procedure (Methodology) for the
Determination of Penalties Imposed by the National Energy
and Utilities Regulatory Commission
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Legislation of Ukraine
as of 8 October 2024
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Publications of the document

- **Publication on the official websites of the state authorities of Ukraine** of 5 October 2023