

Ukraine Power Transmission Project

Land Acquisition Framework

Background

The main objective of the proposed Power Transmission Project is to improve the reliability of the power supply through the rehabilitation of transmission substations and the strengthening of the power transmission network. The project will also aim to upgrade the capabilities of transmission system operator, Ukrenergo (UE), so that it can assure security and reliability of power supply, including: (a) removing critical bottlenecks in transmission networks; (b) improving operational stability of power grid; (c) upgrading load dispatch and system control capabilities; and (d) upgrading infrastructure and systems for electricity market administration.

A major component of the project will be the construction and extension of transmission lines linked to the Dnister Pumped Storage Project (PSP). This component includes strengthening of the transmission connection of the Dnister PSP with the national power grid at the 330 kV voltage level through the construction of the 80 km long transmission line Dnister PSP—Bar and the extension of the existing transmission line Dnister HPP (hydropower plant)—Ladyzhyn Thermal Power Plant to the Dnister PSP. The lines will traverse sparsely populated agricultural areas characterized by large, open fields interspersed with modest forest tracts. Land is either owned by the State or leased to individuals and enterprises under 49-year tradable leases. There is not expected to be any illegal occupation or encroachment in the area.

The general alignment of the transmission lines is known, but the precise alignment is yet to be determined. Technical design work is underway, but will not be completed until the end of 2006. Implementation of the component Construction entail some land acquisition for footprints of transmission towers and to expand the substation at Bar. The line is expected to require about 280 towers, roughly 20 percent tension towers, with a footprint of 81 m² and 80 percent suspension towers, with a footprint of 52 m². Thus the estimated total land to be acquired for the 280 towers is a little more than 1.5 ha. A small amount of land will be acquired to expand the substation. Additional land will be used temporarily during construction, and the right of way will be established along the route of the transmission lines, for which Ukrenergo will obtain lease contracts with landowners. All land transactions will be undertaken in accordance with the current laws of Ukraine and in a manner consistent with the World Bank's operational policies. Given the uncertainty of the location and amount of land to be acquired, this Ukrenergo has prepared this Land Acquisition Policy Framework to describe the process through which land will be acquired for permanent and temporary use in compliance with OP/BP 4.12 Involuntary Resettlement.

Legal Basis for Land Acquisition and Land Use Arrangements

Land Acquisition

Land is acquired for the footprints of transmission towers according to the following regulatory framework:

- Land Code of Ukraine (1 January 2002) (especially Articles 92,144-149)
- Law of Ukraine "On Land Assessment (Valuation)"
- Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279 "On Size of and Procedure for Calculation of Agricultural and Forestry Losses Subject to Compensation" and Appendix.
- Constitution of Ukraine, Articles 13, 14, 41
- Law of Ukraine of 21.05.1997 No.280/97-BP "On Local Self-government in Ukraine"
- "Regulation on the State Committee of Land Resources of Ukraine", approved by Presidential Decree of 14.08.2000 No. 970/2000
- Law of Ukraine of 06.10.1998 No.161-XIV "On Land Lease"
- "Procedure for Calculation and Compensation of Losses to Land Owners and Land Users" approved by Regulation of the Cabinet of Ministers of Ukraine of 19.04.1993 No.284
- Civil Code of Ukraine, Article 350

Temporary Land Use during Construction

Compensation for the temporary use of land during construction is established in the following Regulations of the Cabinet of Ministers:

- Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No.1279 "On Size of and Procedure for Calculation of Agricultural and Forestry Losses Subject to Compensation" and Appendix
- "Procedure for Calculation and Compensation of Losses to Land Owners and Land Users" approved by Regulation of the Cabinet of Ministers of Ukraine of 19.04.1993 No.284

Right-of-Way and Easements

Protection of the right of way and compensation for access during maintenance and emergency repairs are covered by two Regulations of the Cabinet of Ministers:

- "Power Networks Protection Rules" approved by Regulation of the Cabinet of Ministers of Ukraine of 04.03.1997
- Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No.1279 "On Size of and Procedure for Calculation of Agricultural and Forestry Losses Subject to Compensation" and Appendix.

Land Acquisition Principles

Six principles will guide the acquisition of private land and rights of way:

- ③ Minimize expropriation and land acquisition
- ③ Use public land as much as possible
- ③ Follow property lines to minimize the impact on individual households
- ③ Entirely avoid inhabited areas and above-ground structures
- ③ Resolve compensation, registration and transfer issues with owners without seeking court intervention
- ③ Compensate owners and users in full before construction begins.

Land Acquisition Plans and Procedures

Land Withdrawal/Acquisition

The alignment of transmission lines must be announced through the mass media one year before construction begins, according to Article 146 of the Land Code and Article 350 of the Civil Code. The announcements are part of the process of obtaining a location permit. Residents on or near the alignment are contacted to gain their permission and signatures are submitted as part of the documentation package. The notifications are made via newspapers, web-sites, and radio, through registered letters and posted announcements, and during consultations with the public. The requirement to make a year's notice of land withdrawal prior to the start of activities is established in the Land Code of Ukraine. The compliance with the requirement is monitored by NEC "Ukrenergo". The penalties are not provided for the cases where NEK "Ukrenergo" fails to meet the time advance notice requirement. NEK "Ukrenergo" is committed to honor the one-year prior notification for all land acquisition covered by this Policy Framework.

NEK "Ukrenergo" is then responsible for preparing a Land Acquisition Plan, which is submitted as part of the documentation for a construction permit. The technical design of the transmission line is prepared for NEK "Ukrenergo" by a design institute, accompanied by a Land Acquisition Plan prepared by a properly licensed organization. The Land Acquisition Plan contains information about each land plot to be withdrawn for permanent use. In addition, the Land Acquisition Plan includes a list of all trees and economic perennial plants that must be removed for construction or to secure the protected part of the right of way.

The Land Acquisition Plan must be approved by the local authority which makes decisions about the provision of land. The estimated cost of land to be provided for permanent use and for lease during the construction period is calculated by a properly licensed organization and approved by the local authority. The cost estimate is calculated from the estimated value of each individual land plot. It is not necessary for NEK "Ukrenergo" to demonstrate the availability of resources to pay the cost of implementing the Land Acquisition Plan.

The customer (NEK "Ukrenergo") oversees the implementation and assesses the impacts.

NEK "Ukrenergo" provides information about the Land Acquisition Plan through the mass media and public authorities. NEK "Ukrenergo" specialists then directly contact landowners and land users whose plots are to be affected to inform them about the evaluation, transfer and construction process.

If the land to be acquired for a tower footprint belongs to a private landowner or user, whose ownership must be confirmed under a state land property act, the land will be acquired permanently and transferred to NEK "Ukrenergo" according to articles 92, 146-149 of the Land Code of Ukraine.

Compensation to land owners for the withdrawn (purchased) land is based on the fair market price of the land plot at the moment of withdrawal. The market price of the land depends on its quality, average yield, and is calculated with a capitalization period of 33 years. This corresponds to the World Bank's requirement of "replacement value" as it enables the person to purchase similar land.

The amount of compensation is calculated separately for each specific plot of land according to the Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No.1279, where on page 2 it gives a table with the prices paid per 1 hectare of land set for different regions on one side and for different land use purposes (tillage, haymaking, pastures, plantation, etc.). Price ranges from 20.09 UAH (4 USD) to 615.34 UAH (130 USD) per m².

If the land is obtained from the state fund (i.e., it is not private property), the compensation is calculated according to the Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No.1279. The quality of land, its use rate and yield must be taken into account in this case as well.

Third parties are compensated in accordance with the "Procedure for Calculation and Compensation of Losses to Land Owners and Land Users" approved by Regulation of the Cabinet of Ministers of Ukraine of 19.04.1993 No. 284. The third parties rights and access to compensation for losses is also stipulated in the "Procedure for Calculation and Compensation of Losses to Land Owners and Land Users" approved by Regulation of the Cabinet of Ministers of Ukraine of 19.04.1993 No. 284. Typically, third party compensation is to land users for standing crops.

Compensation for trees cut as a result of forest area allotment will be paid by NEK "Ukrenergo" to the owner of the trees within 2 months after the land acquisition plan is approved. The amount of compensation is determined according to Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279.

In order to determine the scope of the losses and the full compensation of their real costs, a commission is created, which prepares the valuation protocols. Such commissions are created in compliance with the legislation to ensure the compensation process for losses is carried out in a transparent way.

Temporary Land Use during Construction

The Land Acquisition Plan also identifies landowners and users whose land will be used temporarily during the construction period. Temporary land use requirements are announced in the media and through public offices and the landowners and users are contacted directly by specialists from NEK "Ukrenergo." The owners and users are compensated according to Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279 "On Size of and Procedure for Calculation of Agricultural and Forestry Losses Subject to Compensation" and "Procedure for Calculation of Agricultural and Forestry Losses Subject to Compensation." Compensation is based on the average yield of the land plot and the market price of the agricultural products that might have grown on the plot. If there are standing crops on the land plot during the construction period, losses will be compensated based on the calculated value of actual damage and the market value of the yield that might have been obtained from the damaged area (Regulation of the Cabinet of Ministers of Ukraine No. 284). The valuation process applied equitably and consistently.

The land can be used temporarily only after NEK "Ukrenergo" has concluded an agreement with the landowner/user and has paid the compensation.

Protection of the Right of Way and Access for Operation and Maintenance

NEK "Ukrenergo's" right of access to transmission lines is regulated both by the "Power Networks Protection Rules" approved by Regulation # 209 of the Cabinet of Ministers of Ukraine dated 4 March 1997 and by servitude contracts (easement agreements) which NEK "Ukrenergo" concludes with landowners and users of land plots below and alongside the power lines. The agreements, which restrict use of the land by the owners, are registered on the title for the property.

The servitude contracts include: a) the terms and conditions of the use of land by NEK "Ukrenergo" and the land owners' limitations in accordance with the "Power Networks Protection Rules" approved by Regulation # 209 of the Cabinet of Ministers of Ukraine dated 4 March 1997; and b) the amounts and terms of compensation payments to the land owner.

The Length of agreement – it is stated in the contract and % of assessed value of land is set in servitude contract.

Farmers and others can continue their previous activities within the protected area of transmission line with restrictions specified in the "Power Networks Protection Rules" approved by Regulation # 209 of the Cabinet of Ministers of Ukraine dated 4 March 1997.

Regular repair and maintenance of the line is carried out after harvest. Access to the line during regular and emergency repairs is regulated by the easement contract between NEK "Ukrenergo" and landowners and users. Damages to crops that are caused during regular

maintenance and emergency repairs are compensated on a case-by-case basis, based on an assessment protocol.

The amount of compensation for damages is determined by a commission organized the authority whose jurisdiction includes the site of the transmission lines – city or rayon state administrations, or the executive committees of city (oblast centers) councils.

The commissions include representatives the appropriate jurisdiction, landowners or users (lessees) who suffered damages, representatives of NEK "Ukrenergo", representatives of public land resource authorities, financial authorities, architecture and city development authorities, and the executive committee of the councils of relevant villages and cities (rayon centers).

Land owners (land users) are not satisfied with the decision of the commission can appeal to the court, following procedures foreseen by the Regulations of the Cabinet of Ministers of Ukraine No. 1279 and No. 284. The owner has the right to appeal to the courts of all levels. The ruling of the court also determines who pays the cost of litigation.

Affected Parties and Entitlements

Three categories of persons will be affected: private landowners, public landowners and tenants of private and public owners. The Matrix of Entitlements appears as Attachment A of this document. The precise number of affected persons (private and public owners and tenants) will not be known until the technical design is completed. Assuming one owner per tower footprint (81 m² for tension towers and 52 m² for suspension towers) there would be 280 affected persons. If the alignment follows property lines, the amount of land required would not change; the number of affected persons would increase, however, although the impact on each would decrease. The number of owners of the plot next to the existing substation is not known, but is unlikely to be more than 2 or 3. All of the land is agricultural land.

Persons (private and public) entitled to compensation for land, losses or damages are paid in full before NEK "Ukrenergo" can enter the land. In case of disputes over ownership or compensation amounts, NEK "Ukrenergo" transfers the sums corresponding to the assessed value of the land to the accounts of local authorities, which in their turn settle the payments with the entitled persons.

At the end of the construction work or after access gained for maintenance or repair, NEK "Ukrenergo," will return the land to its previous state.

The transmission lines are not expected to pass through any land that is informally or illegally used. If such a case occurs, however, the actual land owner would be compensated for any land acquired and the user would be compensated for crop losses and damages. No residences or structures would be involved, and no one will be relocated, however, so resettlement assistance is not necessary.

Implementation Issues

Implementation and funding

NEK "Ukrenergo" will be assisted in preparing the Land Acquisition Plan, but will have full responsibility for implementing the plan. The cost of land provided to NEK "Ukrenergo" for permanent use and for lease during the construction period, and the cost of damages caused during the construction is to be paid from the cost estimate of the Project or from the company's own resources. After NEK "Ukrenergo" and an owner jointly sign a purchase or lease contract or a servitude agreement, NEK "Ukrenergo" deposits the compensation amount directly in the bank account of the affected person.

Consultation

Affected persons are notified twice through the mass media of plans to construct the transmission line. In addition, announcements are posted in local administrations. They are also contacted individually at two times: when NEK "Ukrenergo" applies for a location permit and a permit for design preparation and when NEK "Ukrenergo" applies for a construction permit. The negotiations occur both at the first and at the second notification and continue until an agreement is reached or NEK "Ukrenergo" files a request for court intervention.

Grievance Mechanisms

If potentially affected persons oppose the location of the transmission line, they can register an objection during the discussions for a location permit. Once the location permit has been obtained, and the Land Acquisition Plan has been adopted, affected persons can negotiate compensation with NEK "Ukrenergo" and with the local authorities for the purchase of land and the lease of land during the construction period. If negotiations are unsuccessful, the owners/users can appeal to the court. The ruling of the court is obligatory for each of the parties.

Documentation Submitted to the World Bank Review

Prior to obtaining final approval for the Land Acquisition Plan, NEK "Ukrenergo" will submit the plan to the World Bank for review and revision, if necessary, to ensure full compliance with the Bank's Operational Policy on Involuntary Resettlement. The Bank will have 30 days to review and request modifications or issue a no-objection.

Monitoring and Evaluation

NEK "Ukrenergo" will obtain the services of an independent agency (university institute, consulting firm or NGO) to monitor land acquisition procedures and report to NEK "Ukrenergo" and the World Bank any irregularities and shortcomings in implementation of the Land Acquisition Plan or any unexpected negative impacts on affected persons.

The World Bank will include a resettlement specialist in its regular supervision missions, who will also monitor progress and problems and recommend ways to resolve any outstanding issues.

Disclosure

This Land Acquisition Framework Agreement was officially disclosed on the website <<http://www.ukrenergo.energy.gov.ua>> of the company in English and Ukrainian Language on May 6, 2006 and distributed as hard copies to all interested parties and through posting in local administrations in cities and villages close to the sites where planned a construction and extension of transmission lines linked to the Dnister Pumped Storage Project (PSP).

There is a positive attitude of the general public to this project and wide support from the local administration.

Annex A Entitlement Matrix

Project Component	Element	Project Impact	Category of Project Affected Persons (PAP)s	Entitlement
Construct New Transmission Line and Expand Existing Transmission Lines	Tower	Land withdrawal for permanent use	Private Owner	Compensation, at least market value of the land, damages
			Land Users	Compensation in accordance with Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279
			Public Owner (State or Municipality)	Transfer, with or without compensation
	Transmission Lines	Lease of land for the period of construction Lease	Private Owner	Compensation for disruption; compensation for crop damage; land returned to original physical condition for handover
			Land Users	Compensation in accordance with Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279
			Public Owner (State or Municipality)	Use agreement, with or without compensation
		Permanent Right of Way Lease/Servitude Agreement with Owner	Private Owner	Compensation for disruption; compensation for crop damage; land returned to original physical condition for handover
			Land Users	Compensation in accordance with Regulation of the Cabinet of Ministers of Ukraine of 17.11.1997 No. 1279
			Public Owner (State or Municipality)	Concession agreement, with or without compensation
Expand Existing Substation	Location of substation	Land withdrawal for permanent use	Private Owner Land Users	Compensation, at least market value

