

ICPS newsletter

Privatisation in the power sector: which way to choose?

Privatisation in the power sector should meet different interests. In particular, the government expects to get revenues from privatisation during the years of heavy foreign debt repayments. Consumers demand a guaranteed electricity supply, while power companies expect full-scale payments for the energy they supply. What kind of privatisation will allow to take into account all these concerns? What priority should be the first: privatisation or the creation of a market environment? Participants of a roundtable titled "The Concept of Privatisation in the Power Sector" tried to answer these questions

Kinds of privatisation

Mr. Oleksii Kucherenko, a people's deputy and member of the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy, and Nuclear Safety, sees two approaches to privatisation in the power sector. The first one is *to continue privatisation, but with improved privatisation procedures*. The other approach is *to suspend privatisation until the government determines and approves the state program for Ukraine's development; develops the strategy for reforms in the power sector; forms the market environment; and regulates relations in the energy market*.

A successful implementation of the current privatisation policy demands a number of the following requirements are met and privatisation mechanisms are reviewed:

- while setting criteria at privatisation tenders, the priorities of attracting investments for the renovation and technical upgrade of power plants should be ensured;
- involving reputable foreign financial advisors in the evaluation of energy companies' assets, as well as consulting on privatisation tenders, on the obligatory basis;
- organising wide-scale marketing campaigns for the companies to be privatised in Ukrainian and foreign mass media;
- providing transparency for privatisation tenders;

· clearly determining mutual obligations of the state and the investor.

According to Mr. Oleksii Kostusiev, a people's deputy and head of the subcommittee on power sector and energy saving of the Verkhovna Rada Committee on Fuel and Energy Complex, Nuclear Policy, and Nuclear Safety, privatisation procedures should envision move control over privatisation process in the power sector on the part of the sectoral ministry. Mr. Kostusiev informed the seminar participants on a draft law, prepared by the Committee, describing the specifics of privatisation of assets belonging to enterprises working in the fuels and power complex. The deputy said that the mechanisms described in the draft law could eliminate distortions in the privatisation of power companies. In particular, the draft law envisions coordination of the privatisation plans by the Ministry of Energy and the Cabinet of Ministers to avoid kinds of sales when prospects for the enterprises are not considered. This function will be also granted to the representatives of the sectoral ministry appointed by members of the tender commission.

According to Mr. Kostusiev, power companies are of great importance for the national security, therefore the state should keep its influence on the activity of these companies. According to the draft law, 50%+1 share of fuel and gas companies and hydroelectric plants with power more than 30 megawatt is to be kept in the state property, as well as

Last Week

Discussing problems of corporate governance. A roundtable on "Legislative Provision of Corporate Governance in Ukraine" organised by the Coordination and Analysis Center for Ukrainian Business Associations was held at ICPS on December 23. The seminar participants discussed a draft law "On joint-stock companies" developed by experts of FMI company (USAID) jointly with the State Commission on Securities and the Stock Market, the Ukrainian Association of Investment Business, the Ukrainian-European Policy and Legal Advice Centre, and the International Finance Corporation.

According to the draft authors, Ukraine needs a better developed legislation on joint-stock companies which would ensure a proper security for shareholders and stimulate business activities. If the existing draft law "On joint-stock companies" focused on effective security of shareholder minority rights is approved, Ukraine will be able to attract more capital of foreign investors into its economy, as well as to incite domestic investment processes.

The draft law "On joint-stock companies" contains detailed procedures of joint-stock company establishment, business activities, reorganisation, and liquidation. The draft grants the privileged right to existing shareholders to purchase the company's issued additional shares. Besides, the draft law allows minority shareholders to be elected to a supervisory board through cumulative voting. Moreover, the draft law clearer determines the division of responsibilities between the company's bodies that would prevent conflicts; ensures protection of lender rights in case of stock company reorganisation and/or liquidation; simplifies the order of additional stock floatation through introducing initial public offer procedure.

25%+1 share of other enterprises of the fuel and power complex.

This draft law implies the sale of shares of enterprises of the fuel and power complex via open bidding in two stages. At the first stage technical proposals of bidders such as qualifying characteristics and business-plans would be examined, and the second one involves evaluation of financial proposals. To improve financial performance of enterprises of the fuel and power complex, the funds received through share sale in a tender are provided to be at the enterprise's disposal. Attracted money could be spent only on investment needs of privatised enterprises, and on paying wage arrears.

According to Ms. Vira Matveieva, head of the Legal Department of the Ministry of Energy, privatisation procedures should ensure coming of effective owners and investment inflows. To achieve this goal, *the non-commercial tenders* setting certain investment obligations, stricter requirements to tender participants, and

using individual approach should be organised.

Mr. Leonid Kalnichenko, head deputy of the State Property Fund of Ukraine, believes that privatisation provides for regulating market mechanisms, formulating new management methods, developing capital flow from power distributing companies to power generating companies. It will also allow to attract foreign investors.

However, an opposite view presented by Mr. Kucherenko shows that prior to starting privatisation certain market mechanisms should be installed in the country. Under current conditions non-payments prevent developing these market mechanisms.

Problems to be solved by privatisation

In spite of different views, the roundtable participants agreed that if effective mechanism is provided, privatisation

would solve the following problems:

- attracting owner interested in current effective performance of enterprise and its future prosperity to power sector;
- introducing modern management in power companies;
- improving financial performance of enterprises operating as the fuel and power sector;
- reconstructing and modernising the power sector.

Privatisation is the important factor for introducing proving market relations to the power sector. However, this process will be effective only if the mechanism reinforcing responsibilities under contractual obligations is developed, and a level playing fields is ensured for all market participants.

The roundtable "The Concept of Privatisation in the Power Sector" was held at ICPS on December 23, 1999.

Education and science reform will provide economic growth

During the second half of 1999, the Association of Researchers of Central and Eastern Europe jointly with ICPS conducted the Determining Tendencies and Ways of Science and Education Transformation Focused on European Integration of Ukraine project. The main project tasks included an analysis of theoretical foundations on which science and education reform projects were built. The project also involved determining ways and possible alternatives to set policies to transform these components of the culture with focus on Ukraine's integration into the European community. An analytical report on the project results was released last week. Its conclusions are presented below

During the first years of Ukraine's independence, science and education were missing at the list of public policy priorities. Ukraine proclaimed its European choice and the domestic economy began to adopt to market conditions. However, its science and education are still oriented toward the foundations of the old system, inevitably reproducing it. At the state level there was no understanding that education sphere should meet requirements of the labour market, and intellectual property and scientific research should be the important factors for economic growth.

Ukraine is still one of the world's leaders in cosmonautics, aircraft construction, and welding technologies. The great potential is accumulated in information technology, electronics, and biotechnology.

Unfortunately, this potential has no chance to develop because the old administrative structure is maintained, its agency and sectoral interests slow down the implementation of a single strategy of economic reforms and the development of the science and education sphere.

To ensure that proper intellectual and technological resources of Ukraine match requirements of economic reforms and the choice for the European integration is the main goal of the new science and educational policy. Under the conditions of global competition, the crucial factor determining the nation's welfare is the ability to create new technologies and to forecast social demand. Thus, there is an urgent need to implement the following structural changes in science and technology sphere:

- refocusing the education and science sector to the objectives of social transformation and long-term growth;
- recognising as the most important forecasts, analytical and program developments determining the priority of research and innovations in economy based on competitiveness of final product;
- ensuring the introduction of international standards of the patent and copyright policy and intellectual property protection;
- aiming research and technical development to educational reform, so that education would be a vehicle for innovation development and society modernisation;
- creating conditions for participation of foreign companies in Ukrainian research programs and attraction foreign investments into Ukrainian research activities, as well as to provide participation of domestic research institutes in international scientific projects with the aim to increase competitiveness of Ukrainian innovation activity under the conditions of globalisation.

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