



Technical Area (Sectoral) Profile HOUSING AND UTILITIES

ASSOCIATION OF UKRAINIAN CITIES
DIALOGUE Project

Technical Area (Sectoral) Profile
HOUSING AND UTILITIES

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I. Brief Technical Area Description

Services to population in the housing and public utilities sector are provided mainly by enterprises established by village, town or city councils on the basis of communal property.

The basic services to be provided by such enterprises include:

- maintenance of the housing stock;
- centralised water supply and sewage;
- centralised district heating;
- landscaping and urban improvements;
- solid waste removal, recycling and disposal;
- urban public transportation.

In individual cases, utility companies (such as water supply) based on common property of local communities are operative on a regional oblast level. Gradually, the market of utility services is approached by private companies, primarily in the sector of urban automobile transportation, removal and processing of solid waste, and maintenance of residential buildings.

The authority of local governments includes:

- providing citizens with housing and utility services of the required quality;
- setting tariffs for housing and utility services;
- identification of providers of housing and utility services;
- appointing and dismissing heads of housing and utility companies.

Tariffs for housing and utility services are set and approved by village, town and city councils. However, setting and approving tariffs for heat suppliers with total capacity of heat supply sources in above 20 giga calories/year, as well as in the sphere of centralised water supply and sewage to not less than 100,000 persons in 2010 was moved to the central level to the National Commission for Regulation of Utility Services.

II. Current legal framework for local government activities in the technical area of Housing and Utilities

Laws of Ukraine

1. Housing Code of the Ukrainian SSR # 5464-X of June 30, 1983.
2. Law of Ukraine “On Privatisation of the State-Owned Housing Stock” # 2482-XII of June 19, 1992.
3. Law of Ukraine “On Local Self-Governance in Ukraine” # 280/97-BP (Article 30) of May 21, 1997.
4. Law of Ukraine “On Waste” of March 05, 1998 # 187/98-BP (Article 21).
5. Law of Ukraine “On Condominium Associations” # 2866-III of November 29, 2001.
6. Law of Ukraine “on Potable Water and Potable Water Supply” # 2918-III (Article 13) of January 10, 2002.
7. Law of Ukraine “On Restructuring of Debts for Apartment Rent, Housing and Utility Services, Consumed Gas and Electricity” # 554-IV (*local governments to set up committees on restructuring*) of February 20, 2003.
8. Law of Ukraine “On Burying” # 1102-IV of July 10, 2003 (Articles 1, 8, 9, 23).
9. Law of Ukraine “On Nation-Wide Program of Housing and Utilities Sector Reform for 2009-2014” # 1869-IV of June 24, 2004.
10. Law of Ukraine “On Housing and Utility Services” # 1875-IV of June 24, 2004 (Article 7).
11. Law of Ukraine “On City Public Electric Transportation” # 1914-IV of June 29, 2004 (Article 8).
12. Law of Ukraine “On Heat Supply” (Articles 12, 13, 20, 27).
13. Law of Ukraine # 2807-IV of September 06, 2005 “On Beautification of Settlements” # 2633-IV of June 02, 2005; (Article 10).
14. Law of Ukraine “On Social Housing Stock” # 3334-IV of January 12, 2006.
15. Law of Ukraine “On Integrated Reconstruction of Residential Quarters (districts) of Outdate Housing” # 525-V of December 22, 2006.
16. Law of Ukraine “On Ensuring the Implementation of the Right to Housing of Residents of Dormitories” # 500-VI of September 04, 2008.
17. Law of Ukraine “On National Commission for Regulation of Utility Services Market of Ukraine” # 2479-VI of July 09, 2010.
18. Law of Ukraine “On Peculiarities of Leasing of Transferring into Concession

of Objects of Centralised Water and Heat Supply and Sewage Belonging to the Communal Ownership” # 2624-VI of October 21, 2010.

Resolutions of the Constitutional Court of Ukraine

1. Resolution of the Constitutional Court of Ukraine of March 02, 1999, Case # 1-18/99 “On the Constitutional Inquiry of the President of Ukraine of the Conformity to the Constitution of Ukraine (constitutionality) of the Law of Ukraine “On Temporary Prohibition on Increasing Prices and Tariffs for Housing and Utility Services and Public Transportation Services, which Are Rendered to Citizens of Ukraine “ (case on utility services).
2. Resolution of the Constitutional Court of March 31, 2010, Case # 2-11/2010, “On Refusal to Open Constitutional Proceedings on the Case on the Constitutional Inquiry of the Kirovske City Council of the Donetsk Oblast on the Official interpretation of the provisions of Part Two of Article 19, Part One, Two of Article 143 of the Constitution of Ukraine, Part One of Article 10, Part One of Article 11, Sub-Paragraph 2 of Paragraph «a» of Article 28 of the Law of Ukraine “On Local Self-Governance in Ukraine”, Part Three of Article 31 of the Law of Ukraine ‘On Housing and Utility Services’, Paragraph Seven of Article 13, Part Three of Article 20 of the Law of Ukraine “On Heat Supply”, Paragraph 7 of Article 18 of the Law of Ukraine “On Local State Administrations”.
3. Resolution of the Constitutional Court of February 10, 2000, Case # 1-21/2000, the Constitutional Inquiry of the President of Ukraine of the Conformity to the Constitution of Ukraine (constitutionality) of the provisions of Part Two of Article 5, Part Three of Article 9 of the Law of Ukraine “On Prices and Setting Prices” and Chapter II “Closing Provisions” of the Law of Ukraine “On Amending the Law of Ukraine “On Prices and Setting Prices” (case on prices and tariffs for housing, utility and other services).
4. Resolution of the Constitutional Court of November 25, 2009, Case # 2-57/2009, “On Refusal to Open Constitutional Proceedings on the Case on the Constitutional Inquiry of Citizen Andriyevskiy Dmytro Yosypovych on the official interpretation of Certain Provisions of the Laws of Ukraine “On Local Self-Governance in Ukraine”, “On Housing and Utility Services”, “On Local State Administrations”, and “On the Capital of Ukraine – Kyiv Hero City”.

Resolutions of the Cabinet of Ministers of Ukraine

1. Resolution of the Council of Ministers of the Ukrainian SSR and Ukrainian Republican Council of Professional Unions # 470 of December 11, 1984 “On Approving the Rules for Keeping Records of Citizens Who Need Improvements of Their Housing Conditions and Providing Them with Residential Premises in the Ukrainian SSR”.

2. Resolution of the Cabinet of Ministers of Ukraine # 572 of October 08, 1992 “On the Mechanism for Implementation of the Law of Ukraine “On Privatisation of State-Owned Housing Stock” (*provides for the mechanism for the participation of former owners of privatised residential buildings in the reorganization and financing of their repairs; mechanism to determine the rate of consumer value of apartments (buildings) to be privatised; and rules to use premises in residential buildings, dormitories, etc.*).
3. Resolution of the Cabinet of Ministers of Ukraine # 891 of November 06, 1995 “On Approving the Regulations for the Mechanisms of Transferring to Communal Property the State-Owned Housing Stock, Which Was Completely under the Authority or Administration of Companies, Institutions and Organisations”.
4. Resolution of the Cabinet of Ministers of Ukraine # 1521 of October 11, 2002 on implementation of the Law of Ukraine “On Condominium Associations”.
5. Resolution of the Cabinet of Ministers of Ukraine # 630 of July 21, 2005 “On Approving the Rules of Rendering District Heating, Hot and Cold Water Supply, and Sewage Services and a Model Agreement for the Provision of District Heating, Hot and Cold Water Supply, and Sewage Services”.
6. Resolution of the Cabinet of Ministers of Ukraine # 631 of July 21, 2005 “On Approving the Procedures for Holding a Competition to Render Housing and Utility Services”.
7. Resolution of the Cabinet of Ministers of Ukraine # 1010 of July 26, 2006 “On Approving the Procedures for Tariff Setting for Solid Waste Management Services”.
8. Resolution of the Cabinet of Ministers of Ukraine # 529 of May 20, 2009 “On Approving the Procedures for Tariff Setting for Building, Edifice and Adjacent Territory Maintenance Services and a Model Agreement to Provide Building, Edifice and Adjacent Territory Maintenance Services”.
9. Resolution of the Cabinet of Ministers of Ukraine # 484 of May 20, 2009 “On Approving a Model Agreement on Providing the Services to Administer a Building, Edifice, Housing Estate, or a Group of Buildings and Edifices”.
10. Resolution of the Cabinet of Ministers of Ukraine # 1216 of November 4, 2009 “On Approving a National Targeted Economic Program to Modernise the Municipal Heating Sector for 2010-2014”.
11. Resolution of the Cabinet of Ministers of Ukraine # 151 of February 17, 2010 “On Approving the Procedures for Recalculation of payments for District Heating, Cold and Hot Water Supply, and Sewage Services in Case Such Services Were not Provided, Under-Provided or Provided with Poor Quality”.
12. Resolution of the Cabinet of Ministers of Ukraine # 461 of June 16, 2010 “On Approving the Procedures for the Use in 2010 of Funds of the Stabilisation Fund Earmarked for the Implementation of the Nation-Wide Program of Reform and

Development of the Housing and Utilities Sector for 2009-2014 and Nation-Wide Potable Water of Ukraine Program for 2006-2020”.

13. Resolution of the Cabinet of Ministers of Ukraine # 621 of July 14, 2010 “On Enhancing Social Protection of Citizens while Paying Housing and Utility Services” (*local governments to inform about the mechanisms of calculating subsidies*).
14. Resolution of the Cabinet of Ministers of Ukraine # 760 of August 11, 2010:”Some Issues of State Regulation of the Utility Services Market” (*local governments to submit copies of ordinances on tariffs to NERC*).
15. Resolution of the Cabinet of Ministers of Ukraine # 1087 of December 07, 2009 “On Approving the Procedures for Setting Tariffs for Supply of Natural Gas to Heating Companies from the Production of Heating Energy for the Purposes of Rendering District Heating and Hot Water Supply Services to Citizens”.
16. Resolution of the Cabinet of Ministers of Ukraine # 869 of June 1, 2011 “On the Consolidated Approach to the Tariffs Formation”.

Other documents

1. Order of the State Committee of Ukraine on Housing and Utilities # 60 of April 25, 2005 “On Approving the Procedures for Determining the Provider of Housing and Utility Services in the Housing Stock”.
2. Order of the State Committee of Ukraine on Housing and Utilities # 76 of May 17, 200 Adjacent Territories”.
3. Order of the Ministry of Economy of Ukraine # 67 of March 07, 2007 “On Approving the Procedures for Providing Opinions on Economically Justified Planned Expenditures for Centralised Water Supply and Sewage Services, Heating Energy Generation, Transportation and Supply Services, District Heating and Hot Water Supply Services, Solid Waste Management Services, as well as Lift Technical Maintenance Services”.
4. Order of the Ministry of Housing and Utilities # 84 of April 06, 2010 “On Approving the Methodology for Setting Quotas for Supplies and Spare Parts for Technical Maintenance and Repairs of Rolling Stock of Municipal Electric Transportation (tram, trolley-bus)”.
5. Order of the Ministry of Housing and Utilities # 48 of March 01, 2010 “On Approving the Procedures for the Ministry of Housing and Utility Services to Approve the Candidates for Appointment and Dismissal of Managers of Municipal Electric Transportation Companies (tram, trolley-bus)” (*candidates to be submitted by city heads*).

III. Key problem issues in the sector and potential ways to resolve them

#	Problem Issue	Ways to Resolve It	Notes
<i>Tariff Policy</i>			
1	The necessity to adhere to a regulatory procedure in case of recalculation of tariffs for housing and utility services when the prices for energy and minimum salary change.	Option 1. Make amendments to the Law of Ukraine “On the Foundations of the Regulatory Policy in the area of Economic Activities” and the Law of Ukraine “On Housing and Utility Services” and envision the adjustment of tariffs for housing and utility services without performing the procedures required by the regulatory policy legislation in case the economic components of the tariff change at the national level. Option 2. Recalculation to be made automatically during 15 days without performing regulatory procedures with the help of formula-based calculations.	The issue has been partially resolved. Amendments were made to the Law of Ukraine “On the Framework of the National Regulatory Policy in the Area of Economic Activities” № 4231-VI of December 22, 2011
2	There is a necessity to implement the mechanism of an investment component of the tariff and exercise control over the intended use of such funds.	Make amendments to the Law of Ukraine “On Housing and Utility Services” regarding the mechanisms of using the funds accumulated due to the investment component of the tariff, as well as envision liability for improper use of such funds.	
3	The National Commission for Regulation of Utility Services Market of Ukraine (temporarily performs the function of the NERC) does not bear responsibility for untimely setting of tariffs in the sector of heat supply, centralized water supply and sewage.	Envision responsibility of the National Commission in the Law of Ukraine “On the National Commission for Regulation of Utility Services Market of Ukraine”.	
4	The National Commission for Regulation of Utility Services Market of Ukraine (temporarily performs the function of the NERC) sets tariffs in the amount lower than the estimated ones as submitted by heating companies.	Envision the compensation for the difference in tariffs in the State Budget for such cases.	
5	Absence of a mechanism for forced fines for untimely payments of housing and utility services.	Prepare and approve the corresponding mechanism.	The issue has been partially resolved. The Law of Ukraine “On Amending Article 2 of the Law of Ukraine “On Temporary Prohibition of Levying Fines from Citizens of Ukraine for Untimely Payments for Housing and Utility Services” № 2795-VI of December 17, 2010

#	Problem Issue	Ways to Resolve It	Notes
6	Prices for electricity and natural gas for citizens and utility companies, which render services to citizens, differ.	Take into account the prices for electricity and natural gas paid by utility companies in the utility service tariffs.	
7	Underestimation of tariffs for housing and utility services set by local government bodies.	Introduce sanctions to local budgets if their corresponding councils set economically unjustified tariffs.	
	Delays in the implementation of court decisions on collecting debts for housing and utility services.	Enhance the performance of State Enforcement Agencies to implement court decisions on collecting debts.	Problem issue of organisational nature.
9	Lack of possibility to identify the lift technical maintenance service as a separate type of services, because it is included into the service of maintaining buildings and adjacent territories.	Make amendments to CMU Resolution № 869 “On Ensuring a Unified Approach to Setting Tariffs for Housing and Utility Services” of June 01, 2011	
<i>Housing policy</i>			
10	1983 provisions of the Housing Code do not meet modern requirements.	Approve a new Housing Code to meet modern requirements.	
11	Ineffective management of housing by Housing neighbourhood maintenance units (ZhEKs), managing companies and condominium associations.	Approve a new Housing Code, introduce licenses for the corresponding types of activities, and provide training for condominium association managers.	
12	Lack of proper control over the transfer of auxiliary premises to the category of non-residential premises by local councils.	Transfer buildings with auxiliary premises exclusively on the books of condominium associations.	
13	Absence of a unified mechanism for recalculation of non-provided or underprovided housing and utility services.	Supplement Resolution of the Cabinet of Ministers # 869 of June 1, 2011 with the corresponding provisions.	
14	Unclear responsibility of service users for their refusal to enter into agreement with producers and providers of housing and utility services.	Supplement Resolution of the Cabinet of Ministers # 869 of June 1, 2011	
15	Absence of a unified procedure and norms for assigning land plots of adjacent territories in case there are no land title documents.	Develop the corresponding procedure and amend Resolution of the CMU #869 of June 1, 2011, or provide financial support to the preparation of land plot title documents for the land under multi-storeyed buildings.	

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16	Insufficient accountability of managers and administrative staff of companies generating, supplying and performing housing and utility services for untimely recalculation for poor quality or non-provided services.	Increase their accountability through making amendments to the corresponding pieces of legislation.	
17	Absence of budget support for the constriction of socially affordable housing;	Prepare a corresponding national program.	Problem issue of the financial nature.
18	Insufficient financial support to the works aimed at putting state-owned dormitories, which will be transferred to the communal ownership, in the proper technical condition in accordance with the Law of Ukraine "On the State Budget of Ukraine for 2011".	Envision the corresponding financial support in the Law of Ukraine "On the State Budget of Ukraine for 2012" and for subsequent years.	Problem issue of the financial nature.
19	The requirement to start as of 2012 preparing special cost estimate documents and conducting state expert evaluation while performing capital repairs of parts of multi-storeyed buildings for public funds leads to additional money and time spent.		
20	No opportunity to construct new engineering networks using public funds on state-owned or communally-owned lands for the general use without the documents certifying the right to such lands.	Amend Article 34 of the Law of Ukraine "On the Regulation of Urban development Activities" to allow such works using city budget funds without the documents certifying the right to such lands.	
<i>Solid waste management</i>			
21	Concluding agreements between local government bodies and carriers of solid waste for the period less than 5 years.	Such arrangements have been lobbied by carriers of solid waste who make their case of the necessity to conclude agreements with local government bodies by the need to make their work profitable. The problem can also be resolved through concluding the corresponding agreements.	This problem issue is not a priority one.
22	Absence of a single state agency with the authority of solid waste management (currently these are the Ministry of Economy, Ministry of Environmental Protection, and Ministry of Housing and Utility Services).	This issue will be resolved in the course of the administrative and territorial reform, namely: through elimination of overlapping authority of new ministries.	

#	Problem Issue	Ways to Resolve It	Notes
23	There are no incentives for solid waste recycling (the cheapest way is to put it in landfills).	This issue has been lobbied by companies engaged in sorting solid waste (separated collection of solid waste). It can be resolved both at the legislation level through the introduction of preferences to such companies and at the organisational level by local government through the following: - establishing tariffs for solid waste collection, providing land plots for manufacturing purposes on preferential terms; - considerable increase of tariffs for putting solid waste in landfills. The Law “On Package and Packing” may envision a special tax (fee) for package to provide incentives for secondary recycling of packaging materials. Local governments engaged in providing incentives for secondary recycling of packaging materials will get an increase capacity of landfills.	
<i>Beautification</i>			
24	There is a necessity to introduce a simplified procedure for allocating and plots for municipal beautification purposes (green plantations, beaches).	Make amendments to the Land Code of Ukraine and urban development legislation (allocation of such land plots according to a simplified procedure provided the city master plan or detailed outline of the territory are available).	
25	The legislation does not provide for regulations of the work of beautification inspection offices.	Make the corresponding amendments to the Law of Ukraine “On Beautification”.	
<i>Water supply and sewage</i>			
26	Problems with settling accounts for water supply and sewage taking into account the differences of readings of building meters and total sum of reading of individual apartment meters. The problem of frequency, organisation and financial support to works on checking and calibrating of meters.	Make changes to the Methodology of Calculation of Technological Norms of Water Consumption and take them into the calculation of tariffs for water-supply and sewage services (not in the house maintenance tariffs). Make amendments to the Law of Ukraine “On Metrology and Measurement Activities” in the part dealing with clear identification of producers (providers, suppliers of housing and utility services) being responsible for organisation of periodic state measurement of apartment and building meters of energy, and taking all the associated costs into account in tariffs for the corresponding services.	

#	Problem Issue	Ways to Resolve It	Notes
27	The Has Ukrainy [<i>gas of Ukraine</i>] State-Owned Company continues to ignore Resolution of the CMU # 1087 of October 07, 2009 on re-concluding agreements following the model agreement because the company forces heating companies to continue the previously concluded agreements with provisions on fines, which constitute at the moment about 30 % of the total debt of these companies.	Enhance the influence on the Has Ukrainy Company with the purpose of concluding agreements with heating companies for supply of natural gas solely on the condition of a model agreement.	
28	There is a threat of mandatory setting up regional water-supply companies (amalgamation of city water and sewage companies).		
<i>Heat supply</i>			
29	Introduction of heating units for heating and water-supply companies contradicts with the principle equal protection of all economic entities by the state.	Option 1: Annul Resolution of the CMU # 1082 of December 03, 2008. Option 2: Charge the National Commission of Regulation of Utility Service Market of Ukraine (temporarily performs the functions of the NERC) to introduce a mechanism of determining the percentage of deduction of funds from heating company accounts taking into account the consumed energy resources, taxes and mandatory payments made, salaries paid, and regular repairs performed.	The Law of Ukraine “On Amending Certain Ukrainian Legislation on Payments for Consumed Natural Gas and Electricity”, Registration#7115 of September 09, 2010, signed by the VRU on December 14, 2010, and vetoed by the President.
30	Unacceptable high loan rates for utility companies.	Representatives of the Cabinet of Ministers together with managers of the OschadBank of Ukraine with participation of the National Bank of Ukraine to consider the issues of preferential loans to utility companies.	Problem issue of the financial nature.
31	Emerging debt for consumed energy resources and provided housing and utility services caused by increased prices for natural gas since the beginning of the current year.	The State Budget for the corresponding year should identify sources of compensations for the funds mentioned above and determine the mechanism for such compensation at the national level.	Problem issue of the financial nature.
32	There is a necessity to compensate heating companies for the difference in tariffs for heating energy, which was supplied to public sector institutions. The difference was caused by the increased prices for natural gas.	same as above	Problem issue of the financial nature.

#	Problem Issue	Ways to Resolve It	Notes
33	There are chances for gas delivery and gas supply/ distribution companies to limit the consumption of the natural gas by indebted heating companies to the technologically required minimum level in the heating season (draft Law of Ukraine “On Amending the Law of Ukraine “On Heat Supply” (concerning the use of the technologically required minimum level of consumption of the natural gas)” (Registration # 9374 of November 01, 2011)).		The Law was passed.
<i>Problems of the general nature</i>			
34	Absence of approved standards of services in the housing and utility sector.	Develop and approve the corresponding standards.	
35	The housing and utility sector is being underfinanced.	Make the corresponding amendments to the Tax Code: <ul style="list-style-type: none"> - Exempt utility companies from the VAT tax or transfer them to the single tax category, or channel the VAT paid by utility companies to local budgets for the purposes of development of such companies; - Introduction of “focused” taxes: tax on package and packaging materials and tax on recycling household chemical goods and channel the proceeds from such taxes to the disposal of solid waste and <u>drain water treatment</u>. 	
36	There is no possibility in the bookkeeping methods to write off amortization for the complete rehabilitation of capital assets of housing and utility companies.	Bringing the requirements of Resolution of the Cabinet of Ministers # 869 of June 01, 2011 # 869 in compliance with the requirements of the Law of Ukraine “On Bookkeeping and Financial Reporting” in the part dealing with the calculation of the depreciation to restore completely the <u>assets according to the books</u> .	
37	Untimely cash receipts from the Stabilisation Fund as envisioned by the Law of Ukraine “On the State Budget of Ukraine for 2010” for the implementation of investment and innovation energy saving projects in the housing and utility sector, which leaves no time to consume such funds.	Establish a monthly or quarterly schedule for receipts of such funds.	Problem issue of the financial nature.

#	Problem Issue	Ways to Resolve It	Notes
38	Incomplete compensation and incomplete subventions from the State Budget to local budgets for preferences and housing subsidies to citizens for paying their electricity, natural gas, district heating, waster supply and sewage bills and other utility services, as well as incomplete subventions from the State Budget to local budgets for providing privileged public transportation services to certain categories of citizens.	same as above	Problem issue of the financial nature.
39	Outdated material base; dilapidated engineering networks.	The problem needs an integrated resolution: financial support to energy efficiency programs, proper use of the tariff investment funds, introduction of economically justified tariffs, transferring utility companies in concession, etc.	

IV. Target Audience

I. Entities involved in legislation drafting in the area of housing and utilities, members of parliament and subjects of the legislative initiative including:

1. Staff of the Secretariat of the Verkhovna Rada of Ukraine Construction, Housing and Utilities Committee, and other Verkhovna Rada of Ukraine committees.

2. National Deputies of Ukraine.

3. Employees of the corresponding structural departments of the Administration of the President of Ukraine and Secretariat of the Cabinet of Ministers of Ukraine.

4. Staff of the Ministry of Regional Development, Construction, Housing and Utilities..

5. Other entities of legislation initiative and authors of draft laws.

II. Persons interested in housing and utilities development:

1. Local government officials.

2. Members of local councils.

3. Scientists.

4. Members and employees of non-governmental organizations engaged in housing and utilities development.

5. Journalists.

6. Interested citizens and foreigners.