

**HUNTON &
WILLIAMS**

**HUNTON & WILLIAMS
USAID UKRAINE**

**ENERGY LEGAL, REGULATORY
AND MARKET REFORM PROJECT**



Prepared for:

U.S. Agency for
International Development

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OUT-EEU-I-800-99-00033-00

4TH QUARTERLY REPORT

MARCH 2001 – MAY 2001

**HUNTON & WILLIAMS - USAID UKRAINE
TASK ORDER OUT-EEU-1-800-99-00033-00
ENERGY LEGAL, REGULATORY AND MARKET REFORM PROJECT**

QUARTERLY REPORT: MARCH 2001 – MAY 2001

A. PURPOSE AND OUTLINE OF QUARTERLY REPORT

A.1. PROJECT PURPOSE AND FOCUS OF WORK

Hunton & Williams has been awarded Indefinite Quantities Contract EEU-I-99-00033-00 (the “IQC”) by the United States Agency for International Development (“USAID”) through which USAID awarded Task Order OUT-EEU-I-800-99-00033-00 (the “TOR”) to Hunton & Williams to provide certain legal, regulatory and wholesale electricity market advisory services in support of Ukraine’s energy sector privatization program (the “Project”). To those ends, we are expected to, and successfully do, work with diverse counterparts within the Government of Ukraine (“GOU”) as well as coordinate our activities among the international donor community.

We continue to summarize the work as principally serving three functional headings, working to:

- ***Strengthen the independence and functionality of the power sector regulator*** – presently the National Electricity Regulatory Commission (“NERC”);
- ***Improve the operation and governance of the wholesale electricity market*** (“WEM”); and
- ***Ensure the success of GOU’s energy sector privatization program*** in concert with USAID contractor Deloitte Touch Tomatsu (“DTT”) – the USAID contractor with primary responsibility to advise the State Property Fund of Ukraine which conducts the privatization of all state entities as the agent of the government.

To achieve each of these goals, we actively work with all GOU counterparts – the Verkhovna Rada of Ukraine (the “Verkhovna Rada”), NERC, the Ministry of Fuel and Energy (“MFE”) and Energorynok State Enterprises (“Energomarket”) – to identify the impediments to achieve our goals, develop precise mechanisms to remove those impediments and then implement those mechanisms.

Specifically, to strengthen NERC, we are implementing the following initiatives:

- Pass new legislation that provides political and financial independence and establishes standards for the energy sector that shall be regulated by NERC.
- Develop and implement a tariff methodology responsive to the privatization effort and current market realities.
- Develop a mechanism for modifying the NERC-established algorithm that controls the flow of funds through the WEM.

To improve operation and governance of the WEM, we are pursuing the following objectives:

- We assisted the executive board of the WEM (the “WEM Board”) to contract for an independent auditor to scrutinize the flow of funds and power through the WEM transit accounts and Energomarket, the WEM settlement administrator.
- Implement appropriate operations within the existing WEM structure that allows transparent functioning of the existing WEM framework established through the Members’ Agreement.
- Prepare the WEM to become a fully functioning true market, including bilateral contracting, by improving information technology and metering at the WEM and Energomarket levels, and by working to enact legislation that can appropriately manage the needed transition.

To ensure the success of GOU’s energy sector privatization program, we undertook the following in the fourth quarter of our project activity:

- Worked closely with the NERC to develop and implement a tariff methodology suitable to attract new strategic investors to participate in the privatization of the oblenergos in Ukraine, and to assure their continued viability. This resulted in supporting the successful privatization of 6 oblenergos with competing bids from western and other companies, and the successful purchase of two of those oblenergos by AES.;
- Advised DTT and Credit Suisse First Boston (“CSFB”) – the investment bank hired by GOU to conduct the first tranche of energy sector company privatization sales, including to assist to construct and track the “matrix” used to maintain coherent direction of the process by tracking the status of issues to be resolved, and assisted in related documents. We also drafted proposed Cabinet of Ministers Resolutions related to land and environmental issues, and worked intensively with the SPF, the CSFB, DTT and the working group, to develop the “Comfort Letter” of government obligations that was eventually issued by the Cabinet of Ministers as its Resolution 133-p in April, 2001.
- Worked with the MFE, the Energomarket, the Verkhovna Rada and the Cabinet of Ministers of Ukraine (“CabMin”) to implement short- and long-term resolution to sector debt issues, per Cabinet of Ministers directions carrying the debt restructure for the 6 oblenergos sold in April 2001, to the chain of the Energomarket, then the generating companies and then to the State Reserve.
- Regularly met with potential strategic investors to share our knowledge on legal and regulatory issues impacting the energy sector.
- Supported the energy task force created by GOU and the international donor community – consisting of USAID, the European Bank for Reconstruction and Development (“EBRD”), the International Monetary Fund (“IMF”) and the World Bank – (the “Task Force”) through drafting joint documents and implementing the action items emerging from Task Force meetings..

- Worked with DTT to coordinate work among the international donor community to ensure a common focus on and support of an acceptable outcome for GOU's energy sector privatizations.

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A.2. OUTLINE OF FOURTH QUARTERLY REPORT

This inception report summarizes the conditions found and results achieved for the period from March 2001 through May 2001, the current status of work, and anticipated activities in the near to medium term.

This report consists of six sections:

- Part B contains an overview of the current status of the project.
- Part C details our relationship with each GOU counterpart, highlighting the current focus of our work.
- Part D summarizes our work in direct support of the privatization effort,
- Part E summarizes our work with the Task Force and the international donor community.
- Part F summarizes the status of our training program
- Part G notes additional services, including to assist in analysis of gas pipeline issues.
- Part H outlines, in Table format, the current status of work in progress for the nearer term.

B. OVERVIEW OF CURRENT STATUS OF THE PROJECT

The design and implementation of the Hunton and Williams project work through the end of May 2001 remained as summarized in the December 2000 Inception Report, which was also our Second Quarterly Report. The February 1, 2001 delay of the due dates for tenders of the six oblenegros until April, from the original February dates, had the practical effect of involving the Hunton and Williams team much more deeply into the mechanics of finalizing the documents related to the privatization, including drafting proposals for Cabinet of Ministers resolutions treating various investor interests. These included texts on land transfer issues, environmental liability, removal of full-paying oblenegros from the transit account mechanism, revisions to the proposed power purchase agreements, and so forth. In addition, the work on the tariff method became extended, beyond the expected completion date of early February.

Thus the Hunton and Williams team worked extensively with the NERC to refine the tariff method. A final tariff method was issued by the Commission, after intensive discussions between the NERC and the investors, other government agencies, and CSFB. Hunton and Williams was a frequent advisor at these meetings, and worked intensively with the NERC staff on a daily basis to develop the actual final text of the method, and also, to develop with the NERC staff suitable spreadsheets to analyze the effects of the tariff.

The resulting method employs a mixture of techniques. It uses many aspects of rate of return method to assure at least a minimum rate of return of 17% on the purchase price and new investments. But it also, employs “incentive” regulation to allow the oblenergo to earn additional profits by retaining benefits of reduced costs or increased efficiency (lower losses) for periods defined in the method. The method is defined as available to any oblenergo that pays 100% to the market for power and which restructures its debts to the Energomarket. These conditions are in any event required by the rules of the tender and are conditions of the sale; but the method can therefore be available to any other oblenergo that meets similar conditions.

C. RELATIONSHIPS WITH COUNTERPARTS

C. 1. BACKGROUND

The TOR identifies four primary counterparts for the Project: NERC, the Energomarket, the Verkhovna Rada, and the MFE. The Memorandum of Understanding between the Government of the United States and the GOU, dated _____, (“MOU”) created the basis for establishing the relationships with the GOU counterparts identified in the TOR. We summarize our work to achieve Project goals with each GOU below.

C.2. NATIONAL ELECTRICITY REGULATORY COMMISSION

In 1996, in part through the diligent efforts of USAID, the President of Ukraine created NERC by decree as an independent energy sector regulatory commission. Supporting NERC’s continued development and working with NERC to support GOU’s privatization effort remains a key focus of our Project. Project relations with NERC are good, bolstered, in part, through our second Project office located within the NERC building. We meet with NERC counterparts daily and have routine meetings with the Chairman and other commissioners to discuss and coordinate on-going issues. Through the first twelve months of the Project, four issues have dominated our work with NERC: the draft law on regulatory commission; tariff methodologies and rate design; due process; algorithm. Each issue is briefly discussed below.

C.2.1. Regulatory Commission Law

Part C.5. below details the history of our legislative efforts to develop and pass legislation improving upon regulatory independence. The current status is that a final version of the Second Reading of this bill has been completed, with consideration for our assistance and detailed comments, and registered with the Verkhovna Rada for vote. However, one of the major parties, which supports the law, has been delaying vote for unrelated reasons. Thus a vote is unlikely before the next session of the Parliament, in fall.

In summary, the focus of this law is to clearly establish NERC’s political and financial independence, freeing NERC from outside influences. Achieving this objective

is critical for increased stability in Ukraine's power sector and the continued success of GOU's energy sector privatization, as the current legal basis for NERC's authority permits interference from the CabMin and other third-party influences.

A bill providing NERC with political and financial independence was formally registered with the Verkhovna Rada. The bill passed at first reading on January 17, 2001. We worked with the FEC Committee of the Verkhovna Rada, which is responsible for the NERC bill, to redraft of the law into the second reading to include additional procedural safeguards and protection of Commission independence. This version has been registered and a vote is now expected in the next session of the Verkhovna Rada.

As we note below, one of the critical features of the bill is to clarify the status of NERC, as such status directly affects the degree of NERC's political independence. Presently the status of the NERC is defined by Presidential decree as an "executive agency with a special status". Government agencies with "special status" first appeared in Ukraine law by Presidential Decree "On Administrative Reform," 15 December 1999. This phrase itself, however, does not clearly establish that the agency is independent of political controls by other executive agencies. Former Ukraine President Kravchuk, as Chairman of the Verkhovna Rada working committee on the Administrative Reform, has appointed a working group to deal with possible further revisions to this Administrative Reform. Hunton and Williams has been appointed as a member of that committee. To date however, that committee has not yet met, and the Presidential Decree remains unchanged. Therefore, we continue to believe that developing new legislation on NERC remains the most efficient manner in which to establish NERC's independence, and accordingly, we have continued to actively work to design and pass the bill currently being considered by the Verkhovna Rada.

C.2.2. Tariff Setting Methodologies and Rate Design

Another critical issue for the success of GOU's privatization program is clarity in NERC's tariff setting methodologies and continued improvement of rate design. Completion of a suitable tariff method and its adoption by the NERC was a major achievement of the period March - May 2001.

Since Project inception, Hunton & Williams' has worked with NERC on these fundamental tariff issues. Our approach has taken several forms. Most of our assistance has been through our daily, "hands on" work with NERC from our NERC-based Project office. Our staff regularly meet with working staff of the NERC, and with the respective commissioners, on matters of tariff policy and tariff development. .

In fall, 2000, USAID created an ad hoc working group on tariffs, of which Hunton and Williams became the chair. By November 2000, the NERC had been recognized as the co-chair of these sessions. The group was designed to develop a tariff methodology to encourage and support the energy sector privatization process. The group included representatives from potential strategic investors, the international donor community, investment banks, NERC and other GOU agencies. The intent of this

C.2.3. Due Process and Regulatory Procedure

A third issue that permeates our work with NERC is to assist NERC in devising a proper governance mechanism, injecting notions of due process, rule of law, and proper regulatory procedure into NERC's work so that NERC's activities reflect international standards. Our formal work on due process in this quarter continued to focus on passage of an appropriate law on NERC independence, as summarized in the discussion at C.5 below. However, we also worked with the NERC to draft a potential resolution on policy for disconnection. Hunton and Williams researched the status of diverse government normative acts related to disconnection, and the legal authority for assurance of a policy on disconnection, and provided the results as a draft resolution the Commission.

However, an important development in NERC process was evidenced by the "open hearing" process used by the NERC for the tariff methodology. At initially the suggestion of Hunton and Williams, the NERC decided to schedule the treatment of the tariff method through an open public hearing process. The NERC decided to do so. They thus invited written comments and proposals from affected entities, circulated progressive drafts of the tariff method and invited further comments and counter proposals; met regularly with affected parties; and held an open public proceeding. This open public hearing was reported widely by the press and attended by affected companies, potential investors, and even other government agencies. Even those Government agencies which did not support the substance of what the NERC finally did, acknowledged that the "public hearing" process was conducted by the NERC in a fair, open and successful way.

On its own initiative, the NERC has also now decided, and included into its draft procedure for processing applications to change tariffs, that all such process be under open public hearings.

C.2.4. Algorithm

Finally, we have continued working with NERC to establish and implement a procedure for modifying the algorithm that currently allocates the flow of funds through the WEM transit clearing accounts mandated by the Electricity Law. The procedure for modifying the algorithm, which Hunton & Williams drafted through consultations and appropriate buy-in by NERC, imposes information requirements and specific mechanisms to propose modifications to and actually modify the algorithms. The procedure also clarifies when and how NERC can declare an emergency situation of the WEM. The declaration of emergency situations by the NERC is a particularly critical problem, since such declaration provide NERC with free reign to modify the allocation of funds to energy sector companies. Both the international donor community and potential strategic investors have criticized NERC's frequent declaration of emergency situations.

C.3. ENERGOMARKET

As explained above, starting in July 2000, we have continued participation in Energomarket working groups as mentioned below.

C.3.1 Energomarket Member Contracts

The Electricity Law requires all WEM Members to have a direct contract with the Energomarket. Hunton & Williams provided a comprehensive analysis of the first draft contracts, and we followed our initial work product with exchanges of draft contracts, specific language, legal research and a line-by-line analysis of the contracts. Development of an improved contract with market members has become a more critical issue as the potential investors have looked more deeply at market relationships. However, at the end of May 2001 there remained no clear consensus among potential investors as to how the power market might be redesigned, and therefore also no consensus on how contracts might be properly reformed. We continue to work with the attorneys of the market and the Board to find commercially acceptable modifications of these contracts.

This process became especially important in the final stage of the privatization sale, as the potential investors began requesting that new purchased power agreements (PPA's) be signed with the Energomarket. An intensive effort began to renegotiate such contracts. For good technical reasons, a final contract had not been reached by the date of the sale. Thus, our work on the "Comfort Letter" included suggesting that this process be affirmed and given a deadline. The investors accepted this notion as part of the Comfort Letter. Negotiations continued even after the sale, and were continuing as of the end of May 2001. Hunton and Williams has continued to advise both the Energomarket and the NERC on details of PPA implementation, and to facilitate resolution of particular issues as they arise.

C.3.2 Amendments To Members Agreement

Also as a result of the Electricity Law, certain WEM Members and Project counterparts believed that aspects of the Members' Agreement conflicted with the amended law. Many WEM documents involve possible changes in the Market Member's Agreement. See for example previous Quarterly Reports at this section, for discussion of that problem. We continue to work with the WEM Board on these issues as they arise. As well, no adverse modifications to the Members Agreement have been accepted..

C.3.3 Wholesale Electricity Market Law Review

The head of the Energomarket asked us to comment on draft of revisions to the first reading bill on restructuring of the WEM, commonly referred to as the “Pavlovski Bill” (the “WEM Bill”). In the late summer of 2000, we provided a very detailed analysis of the bill to the Energomarket and also to the corresponding Verkhovna Rada task force on the WEM. That analysis was in the form of both an analysis, and also, a mark-up (complete revision) of the text of the law. Our primary emphasis then, and remains, to encourage that there be a well organized period of transition to the development of a contract-based wholesale electricity market in Ukraine. We have continued meeting with the Rada FEC Committee working group on the WEM law and with the Ministry of Fuel and Energy working group on the WEM Law, to find appropriate language to effect a proper transition to the new market structure, in event the law passes. In pervious quarters we responded to a request from the Minister of Fuel and Energy to analyze what steps would need to be taken, if the WEM Law were to pass in it’s then existing form. We have since then used that analysis as the basis for discussions with the FEC Committee, the NERC Commissioners, and representatives of USAID, of what specific steps need to be taken if the law passes. This analysis also implies of course that a law, and market structure, based on direct contracts can be workable for Ukraine, provided the necessary implementing steps are in fact taken. We have thus continued our perceived role of attempting to assure a proper transition.

C.3.4 Debt Issues

In the previous Third Quarter report, we discussed the debt issue as reviewed in this paragraph. In December, 2000 we learned from the Energomarket that the question of debt restructure had not yet been finished in signed contracts with the 6 oblenergos subject to the first round sale. We also learned that the reason was that the Market in turn had obligations to its suppliers (generating companies) who had not released those dents, and so on, to creditors of the generating companies, etc. .Therefore, Hunton and Williams, working with USAID representative David Dod, drafted and delivered to the Cabinet of Ministers, a proposal for restructuring the debts up the entire line of creditors, using the same structure as had been proposed by the Cabinet in their October 18 2000 resolutions on the tenders of the six oblenergos. One of our specific innovations was to also resolve that part of the debt of generating companies to the state, by use of write off of generating company debt to the State Reserve. This approach was adopted by the Cabinet, for the first six oblenergos to be privatized. At the same time, the Cabinet extended the period over which restructure was effective to include through the end of December 2000.

Subsequently, in May 2001, USAID requested us top provide a concept paper on how the debt issues might be treated in the future. We provided that paper to USAID. USAID has undertaken to assign the debt restructure project to DTT.

However, in the period from December 2000 to the present, we have also encountered relevant information either on the debt issue, or on the issue of forced sales

of energy company assets under court process. This is not “monitoring” of the asset strip issue. In our view, it is not possible to systematically “monitor” the problem of asset stripping, or even, of known court cases. This is because the information that must be obtained in order to monitor the problem is not published, not publicly known, and not possible to discover in any systematic way. However, we continue to provide relevant information to USAID, the Embassy, and the other members of the Donor Community, on an ad hoc basis, as it becomes known to us.

C.3.5 Metering Issues

Comprehensive and accurate metering are essential pre-requisites to implementing two key goals of our Project: bilateral contracting among WEM Members, and a system of billing and invoicing for a power pool. As such, Hunton & Williams is working with a committee of senior Energomarket staff to define the issues related to proper metering. In the quarter, we completed a paper on solving the metering issues through acquisition of meter, including a schedule of the meters required, their costs, and their justification. We also provided this paper to the EC Fuel Grant program, which has preliminarily agreed to include the cost of acquiring the meters into their grant. We continued to discuss this issue periodically with the representative of the EC, to assure the metering project remains in their list of topics for their “Fuel Gap” grant project.

C.3.6 Information Technology Support

Operation of a complex power pool with diverse members imposes a high burden of information technology coordination, ranging from security for emails to complete billing systems. These issues are critical to a properly governed market and the Energomarket has requested our assistance. Working with the Hunton and Williams information technology specialist and market advisor, we have now begun the process of acquiring computer equipment for the use of the Energomarket.. A Terms of Reference for this acquisition is being prepared, and will be issue in early June. We also expect to complete the first acquisition of equipment in June.

C.4. MINISTRY OF FUEL AND ENERGY

Despite optimism on being able to maintain regular weekly meetings with the MFE, our work with them continues, as needed. We continue to work with them on critical issues. The analysis required for the metering project for example, was conducted as a joint effort by the MFE, the Ukrenergo, the Energomarket, and H&W. We continue to participate in meetings of the MFE committee on Energomarket reforms.

C.4.1 Sector Policy and WEM Structure

A natural area of cooperation between our Project and the MFE relates to energy sector policy and, of greater concern to the Project, the structure of the WEM. Thus, in response to requests from the Minister last fall we provided the MFE with two advisory papers related to the WEM law. One was an analysis of how to maintain the physical

balance of the market in event the WEM Law passes. The other discussed more general issue of wholesale market pricing. This last was also shared with the Energomarket, the NERC and the Rada FEC. We discussed above that we have since then shared this analysis with all of our major counterparts, and discussed with them the need for establishing an adequate mechanism for transition to direct contracting. We are concurrently working to establish the necessary legal and technical tools to facilitate bilateral contracting between market members, as we mentioned above in C.3.5.

C.4.2 Debt

See our discussion above at section C.3.4..

C.5. VERKHOVNA RADA

The Project design assumed relationships with the Verkhovna Rada and, in particular, with the FEC Committee. Based on priorities proposed by the FEC Committee and our ability to meet those priorities within the Project scope of work, we devised a legislative program focused on ensuring a more successful privatization and post-privatization operation of the power sector. To meet our legislative efforts, we maintain biweekly working meetings with the FEC Committee to discuss and address issues related to one or more laws related to the energy sector. The FEC Committee also invited Hunton & Williams' participation in four "task forces" or topical sub-committees addressing the following broad topics: NERC, wholesale electricity market, sector policy, and privatization. We have also been invited to work with them on oil and gas policy and regulatory issues, but due to resource constraints and policy directions from USAID, we have elected not to work on those topics. Below we describe specific legislative initiatives for which we are advising the FEC Committee.

C.5.1. NERC Law

The current status of our work on the NERC Independence Law is summarized above in Part C.2.1. The law has passed the first reading and has been registered for a second reading. The history of this work is described in our December 2000 Inception Report and Second Quarterly Report

C.5.2 Wholesale Electricity Market Law

One of the fundamental tasks of our Project is to improve market governance. In late 1999, a bill restructuring the wholesale electricity market passed the Verkhovna Rada at first reading – the WEM Bill. We are continuing to follow the strategy for this law detailed in our December 2000 Inception Report and Second Quarterly Report.

C.5.3 Energy Sector Policy Bill

A third key legislative initiative of by the FEC Committee is the development of an energy sector policy bill. Regulatory laws in western countries commonly state both

policy purposes to be achieved by such laws and performance standards in the implementation of those policies. In Ukraine, regulatory laws typically contain limited statements of policy, and few or no statements of performance standard. Administrative orders from the executive branch of government – the President or the CabMin – fill such legislative policy vacuums. Rather than leave such important decisions to fate, the FEC Committee decided to develop an energy sector policy bill that would identify energy sector policies and standards.

In February 2001, Hunton and Williams provided to the FEC Committee a detailed review of the technical construction of this law, including of its internal consistency and compliance with Ukrainian standards of legal drafting. The FEC Staff requested that a further analysis be provided, of the effectiveness of the law in reaching its stated objectives, and how to correct those parts that may be ineffective. To respond to this, Hunton and Williams contracted with NERA, Inc. to provide an analysis of the policy implications of the law. This study was completed on our direction, and a final version delivered to the FEC Committee on March __, 2001.

One important purpose of performing these two analyses, the technical one by Hunton and Williams, and the policy one by NERA, was to seek to forestall a vote on the bill. It was our view that the bill was not internally consistent, and did not, consistently, support privatization or other market reforms in the energy sector. Instead, while many sections did support privatization or market structures, other sections would tend to contract this, or to impose new kinds of government controls. We believe that, as a result of demonstrating the internal inconsistencies of the law, we did successfully forestall a vote on the law. Instead, in late May 2001, the Verkhovna Rada instead passed a “Resolution” instructing the Cabinet of Ministers on the topics of policy of interest, and requesting that a sequence of documents be prepared, addressing these concerns, by specified dates.

D. RELATIONSHIPS TO PRIVATIZATION

USAID’s primary privatization advisor to the State Property Fund is DTT. Nevertheless, Hunton & Williams is directly assisting the privatization effort, while continuing our focus of developing the legal and regulatory support to both prepare and sustain Ukraine’s power sector for privatization.

We thus continued in the Fourth Quarter March through May 2001, the same pattern of activities that were established by the end of the Third Quarter, and on which we previously reported. Aside from our daily interaction and input to the privatization process with DTT through sharing common office space, our work in the currently completed quarter consisted of the following.

- We supported CSFB – the investment bank working with the State Property Fund on the privatization sale, by reviewing and commenting on diverse draft documents related to the implementation of the sale.

- We frequently reviewed, commented in detail on, and proposed alternative drafts to, various instruments of the privatization process, including CabMin resolutions, tender notices, draft presidential decrees, and other materials.
- We provided CSFB with legal texts translated into English and advised CSFB on certain Ukrainian legal issues. Along similar lines, we routinely provided DTT and others in the Donor community with English-translated copies of laws and other normative acts for use in its privatization web site.
- We worked jointly with the NERC and investors to develop a NERC tariff methodology study to support the privatization process.
- We regularly meet with potential strategic investors to explore their views and privatization participation requirements, passing relevant information to DTT and incorporating the same into our work.

E. RELATIONSHIPS WITH THE INTERNATIONAL TASK FORCE

As previously mentioned, GOU and the principal international donor agencies in Ukraine – EBRD, IMF, the World Bank and USAID – created an international energy Task Force to tackle problems with the Ukraine power sector. The decisions of the Task Force routinely shape and guide the directions of our Project. Within the Task Force, USAID plays a key role directing Task Force activities, including drafting concept papers summarizing the group consensus (or seeking to attain such consensus). For example, Hunton & Williams supported USAID’s Task Force activities by assisting the Task Force to develop “Comfort Letter” text and issues and other issues of investor interest, as well as working to implement the short-, medium- and long-term goals of the Task Force. .

F. TRAINING PROGRAM

Hunton & Williams developed a focused training program to support Project objectives. Rather than the traditional training consisting of courses and lectures, we devised a series of five, week-long training programs. Each program consists of a one day traditional lecture by a consultant in a particular area, followed by four days of hands on training and discussion with each of our GOU counterpart agencies. The purpose of the exercise is to impart a common vocabulary and to discuss a common set of issues among the counterparts. The topics are selected to emphasize particular aspects of our substantive program: regulatory law, basics of regulation, tariffs and rate design, power pools and generation pricing.

In the March – May 2001 period Hunton and Williams delivered a training advisory, with assistance of personnel from PPL, the United States’ utility with experience in Ukraine, on power pool operations. The course attracted participation from members of the Energomarket, from the staff of the Ukrenergo, from the NERC, from the MFE, and from the Rada FEC. We also began development of additional training as follows: for a course on “Constitutional Logic” to be presented in Kiev at the end of June 2001 by Bill Froehlich, senior counsel of the UD Federal Energy Regulatory Commission; a course on “regulatory Capital Structures and Regulatory Accounting” for the use of the staff of the NERC and others, to occur in September 2001 in Kiev, taught

by staff and former staff of the US Federal Energy Regulatory Commission; a course on “International and Ukrainian Accounting Standards”, also expected for September, for the Kiev staff and field staff of the NERC, to be taught by a western and a Ukrainian accounting expert; assisted the USEA to develop the visit by the staff of the Ohio Public Utilities Commission to the NERC as part of that “twinning” arrangement; cooperation with the USEA to develop a potential “twinning” arrangement for the Energomarket with a US “ISO” transmission and power pool dispatch entity.

G. ADDITIONAL SERVICES

Following the request first made in the December 2000 to February 2001 period, Hunton & Williams continued work on analysis of the issues related to problems of privatization of the Ukrainian Gas Transit System (pipeline paper). Hunton and Williams continues to meet with the relevant USAID Embassy staff to discuss the issues, prepare revised drafts of the first paper, and to comment on revisions done by Embassy staff.

H. ANTICIPATED NEAR TERM WORK

Please see the attached table.

H. ANTICIPATED NEAR TERM ACTIVITIES

LIST OF HUNTON AND WILLIAMS ACTIVITIES AS OF JULY 10, 2001

Assigned	TASK	Action Item / Status
	ENERGOMARKET, ENERGOMARKET BOARD, NERC ACTIONS ON ESE ISSUES, AND WEM MARKET STRUCTURE	
MFG, IL, Slava	Model PPA, advising NERC and ESE on first draft construction.	Completed
Slava [IL]	Consideration of market funds procedure (Schedule 4)	
MFG, IL	<ul style="list-style-type: none"> • Draft Letter for EBRD signature offering Donor Community support to GOU to revise model PPA to meet international standards for contracting • Revise the approved model PPA to international contract standards. 	<p>Completed</p> <ol style="list-style-type: none"> 1. Follow-up with Donor Groups. 2. Continue to confer with AES, ESE and NERC on revisions to

		AES PPA.
IL, Slava	Metering: Assist ESE and Ukrenergo to obtain EC funds for meter purchases	Completed
IL, Slava	Metering: Assist ESE to set TOR for and to contract a market metering operator.	
Slava, Vica	Review of market operation rules (Schedule 2)	Internal Report
ALL	WEM White Paper on market structure vision	<ol style="list-style-type: none"> 1. Revise PPL Position Paper/Meet w/ PPL 2. On Hold Pending WEM Bill Signature
PB, MFG, IL, Lilyia, Anna, Anya	WEM Law, anticipating issues and actions implementation if it passes	Confer with Donor Groups, AES, EDF and other interested strategic investors
MFG	Algorithm procedure, eliminating system emergencies, limiting class of persons who can seek changes, assuring cost basis for cash allocations	<ol style="list-style-type: none"> 1. Review Procedure 2. On Hold Pending WEM Bill Signature
Lilyia, MFG, Vica	100 % Payment issues on implementation, removal from transit account, assurances of consistent treatment in NERC resolutions, contracts and Cabinet Resolutions, and consistent with implementation at ESE	Internal Memo and Memo to NERC
Slava <i>and/or</i> Vica	Government payments for power, relationships to disconnect policy and to 100% payment issues	Monitor & Co-ordinate. Talk To Oblenergos
IL	Pseudo-Twinning ESE with US power pool (USEA), including assist in Study Tour planning	Plan with Yuri Knurev (USEA)
IL, IP, Pavel	Computer Equipment purchases	First purchase

		completed. On-going
IL, PB	UK Study Tour, on power market operations and direct contracting, for members of Rada Fuel Committee, and representatives of the market and the Ukrenergo (July).	On-going
IL, MFG, Slava, Vica	Participate in WEM Board meetings and advise as required	
Vica	Research aspects of the Market Members Agreement	Internal Memo
	NERC RELATED ISSUES AND TRAINING	
PB	NERC Law on political independence	Wait for Rada Vote on Pending Bill
PB, MFG	NERC Law or revision to Administrative Reform, or Constitutional Amendment, on NERC financing	Meet w/ NERC re: status of H&W Work w/ NERC
MFG, Lilyia	Strengthen NERC Due process	Meet with NERC to discuss present procedures for policy making
PB, Yelena	Tariff method implementation, assist NERC in regard to first 6, including review of investment plan	Ongoing meetings with NERC
PB, Yelena	Tariff method implementation, assist NERC in regard to next 12, including technical adjustments to method if needed.	Ongoing meetings with NERC
PB, Yelena	Tariff method and rate design analysis spreadsheet development	Completed
Yelena (PB)	Training on IAS-UAS for NERC staff, including field staff (Sept.)	Organize Training
Yelena (PB)	Course on Regulatory Capital Structure and Regulatory Accounting (Sept)	Organize Course

Lilyia	Weekly Reports on NERC actions and decisions	Newsletter for H&W and USAID (others?)
PB, IL, MFG (Yelena)	Rate Design Concepts (firm and interruptible rates) for use in WEM for use at retail, as concept for generation pricing, reliability responsibility, proper assignment among market members, and means of assuring assignment such as by License Terms, and/or by revisions to Market Members Agreement, and/or by relationship of reliability to pricing such as by use of firm and interruptible contracts and tariffs.	<ol style="list-style-type: none"> 1. Develop Concept Paper 2. Draft <i>or</i> Review letter for AES/ Draft Response for NERC
Liliya (MFG)	Organize NERC Study Tour to UK (Nov.)	Study Tour
IL, Slava (PB)	Generation Pricing and contracting, analysis of current use of generation, and analysis of cost characteristics of generation, as part of preparation for direct contracting, including Energoatom pricing	
	OTHER	
PB	Quarterly Report	
IL, PB	Drafting letter, for use by EBRD, requesting implementation of the list of hazardous non-disconnection and assurance of means of payment; follow up letter with international community	
PB	<ul style="list-style-type: none"> • June 13 and 14 Seminar on Power Sector Reform, supporting Rada • Translate documents and supporting publication. 	<ul style="list-style-type: none"> • Completed • On-going
IL	Supporting use of Argentinian advisor for meetings with Ukrenergo and other market members, following June 13 – 14 Conference.	Completed
PB, Ivan, Kornelia	Pipeline Concept Issues Papers Development	On-Going

PB, Kornelia	Advise, if required, on “Sector Policy Law” revisions.	Confer w/ FEC
PB, Ivan	Advise Rada on “Oil and Gas Law”; development of new law following 2 vetoes of the earlier version (on which we did not assist). Pending advice from FEC Staff on legal strategy.	On Hold
PB, MFG (Bill F.)	“Constitutional Logic” Course for staff and selected counterparts (June)	Completed
JW, PB, IL, MFG	Brief new CTO on duties and projects.	As required
PB	Verify with USAID payment for correspondence courses for local staff	Legal Training for Local Staff
Anna	Workshop on administrative procedure in Ukraine (July or Aug.)	Seminar
Korneliya	Workshop on revamping of judiciary in Ukraine (July or Aug.)	Seminar