

THE ENERGY-SAVING TARIFF AND NEW POWERS FOR THE MINISTRY OF INDUSTRY AND ENERGY REGULATORY OFFICE

On August 1, 2022, the President of the Czech Republic signed into law a new act amending the Energy Act and the Act on Promoted Energy Sources (the “Amendment”). The amendment will enter into force shortly, but the implementing regulations will be decisive in practice:

(a) an energy-saving tariff (a mechanism to cover costs for electricity, natural gas, and heat)

The Amendment **introduces an option for the state to subsidize the final price for electricity, natural gas, and heat for selected groups of customers** by means of state subsidies for each of the energies mentioned.

The subsidies are meant to offer relief to households that have their electricity, natural gas and heat in their own names (they have an energy contract directly with the energy supplier) as well as households whose heat and energy is secured by their landlord/manager (typically in a homeowners’ association or cooperative).

The support mechanism allows the government to set, for a particular period of the calendar year, the category of supported customers, the maximum subsidy for that category, and the period for which the subsidy for consumption will apply. **The Amendment caps the subsidy for individual offtake points at CZK 30,000 / calendar year, with limited ability to combine subsidies for individual energies.**

The government can stipulate the supported groups of customers based on distribution rates (for electricity) or size of annual offtake (for natural gas), and customers can certainly achieve energy savings.

Households with a direct contract with the electricity and gas provider will not have to apply for the subsidy, as it will be **automatically calculated and reflect in their invoice** by their provider.

People using flats exclusively for residential purposes who receive electricity and gas through their homeowners’ association or cooperative can receive the subsidy subject to an application by the heat provider, i.e. the homeowners’ association or cooperative, not the flat user. If they apply for the subsidy, the **provider will be required to reflect the subsidy for the recipient (flat user) no later than at the next billing statement** as an extra advance payment made by the flat user, and the billing statement must clearly show the amount of the contribution reflected.

The subsidy for heat must be actively applied for.

Customers should learn the amount of the subsidy for electricity and gas from their provider’s website, as the Amendment requires providers to publish that information for individual categories of customers according to the government regulation.

If providers do not publish the information about the supported groups on their website, use the Subsidy in conflict with its intended purposes, or do not reflect the Subsidy in the billing statement or advance payments, they are subject to a penalty of up to CZK 50 million or up to 1% of their net annual turnover.

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The promised government regulation designating the supported groups and relevant Subsidies has not yet been issued. The amount of the promised support is also changing over time. Within the legislative process the Ministry spoke according to the last published information about the maximum amount of the subsidy should be 16.000,- CZK, while the latest information circulating in the media indicate that the support provided through the end of the year would be significantly lower, with more support to be provided in the next calendar year.

(b) new authorizations for the Ministry of Industry and Energy Regulatory Office

The Amendment introduces the institute of a state of emergency in the gas sector and with its new legal powers for the ERO and the Ministry of Industry and Trade (MIT). A state of emergency is a situation in which the last off-take stage is declared for the entire territory of the country, in which gas is still supplied to a designated group of customers (i.e. OS 10).

In the event and for the duration of an extraordinary state of emergency in the gas industry, the Amendment gives the Energy Regulatory Office the power to regulate the price of gas for settling the deviation during the extraordinary state of emergency and to set the monthly rent in CZK per offtake point and the gas provider's profit margin in CZK/MWh.

In the gas sector, in the event of a declared state of emergency, the MIT has the power to impose an obligation to limit or interrupt gas consumption or change gas supply, or to designate a group of customers to whom gas may be supplied differently from the declared off-take stage according to the legal regulation governing off-take stages in the gas sector, or to order restrictions on gas transport to neighbouring systems.

The Amendment also introduces additional powers for the Ministry of Industry and Trade in preventing a state of emergency in the area of production and distribution of heat and in the gas industry.

With regard to heat supply, the Ministry of Industry now has the power to announce a pre-emergency state for the entire country for no more than 12 calendar months with the option to extend (even repeatedly). As part of these new powers the Ministry of Trade can now issue requirements for holders of licenses for the production or distribution of heat for instance as follows:

- Impose obligations to lower the risk of a state of emergency - this is a very widely conceived obligation that the explanatory report on the bill describes as allowing the Ministry of Industry to require license holders e.g. to prepare equipment for operation to lower natural gas consumption and secure fuel for that equipment. In other words, license holders will have to secure an alternative source of energy as well as fuel for that source to secure heat production without using natural gas. This will probably lead to greater use of coal, fuel oil and/or biomass. These alternative sources will not be subject to emissions limits for the duration of the pre-emergency or emergency state.

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Holders of licenses for the distribution of heat in grids supplied more than 50% from a single source are already required to have analyses prepared examining the effects of an outage of that source and to establish input points to the heat grid for connecting alternate sources based on the results of the analysis.

- The Amendment introduces the obligation for license holders to restrict supplies of heat or for heat consumers to use their equipment only on the basis of obligations imposed by the Ministry.

We will be happy to discuss any questions you may have.

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