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TÍTULO: Contratos de servicios de energía en la legislación contractual de la Federación de Rusia.

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RESUMEN: Este documento está dedicado al estudio de los contratos de servicios de energía en el sistema de tratados de la Federación de Rusia. La relevancia del estudio es que las leyes de energía y la legislación de energía se convierten en una de las áreas clave que requieren conocimientos técnicos, tecnológicos, económicos y legales específicos en la etapa actual de desarrollo del estado nacional. El documento comprende un estudio de los contratos de servicios energéticos a través del prisma del sistema de contratos en la Federación Rusa, que permite mejorar la forma legal de consolidar las acciones legales dirigidas a la conservación de la energía y aumentar la eficiencia energética.

PALABRAS CLAVES: ley de energía, contrato, sistema contractual, contrato de servicio de energía, regulación contractual.

TITLE: Energy Service Contracts in the Contractual Law of the Russian Federation.

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ABSTRACT: This document is devoted to the study of energy service contracts in the Russian Federation's treaty system. The relevance of the study is that energy laws and energy legislation become one of the key areas that require specific technical, technological, economic and legal knowledge in the current stage of development of the national state. The document includes a study of energy services contracts through the prism of the contract system in the Russian Federation, which allows improving the legal way to consolidate legal actions aimed at energy conservation and increase energy efficiency.

KEY WORDS: energy law, contract, contractual system, energy service contract, contractual regulation.

INTRODUCTION.

Energy is a backbone sector of any economy, ensuring the functioning and development of its individual industries. In view of this, a significant issue on the agenda of world energy security is the issue of energy saving and an increase in the coefficient of benefit from its quality while minimizing the costs of its use.

Since the last decade, in the Russian Federation the Federal Law "On Energy Saving and Energy Efficiency Improvement and Amendments to Certain Legislative Acts of the Russian Federation" is in force[1] being adopted in pursuance of the Energy Strategy of the Russian Federation[2]. The

[1]Federal Law, dated 23.11.2009 No. 261-FZ (as amended on 04.23.2018) "On Energy Saving and Improving Energy Efficiency and Amending Certain Legislative Acts of the Russian Federation" // "Russian Federation Legislative Assembly", 30.11. 2009, No. 48, Art. 5711.

[2] Order of the Government of the Russian Federation dated November 13, 2009 No. 1715-p On the Energy Strategy of Russia for the Period until 2030 // Collected Legislation of the Russian Federation, 30.11.2009, No. 48, Art. 5836.

purpose of the latter is to maximize the efficient use of natural energy resources and the potential of the energy sector for the development and creation of conditions for sustainable economic growth in the Russian Federation. These documents are the most important in the context of the study of energy law in general, including issues of energy conservation and efficient use of energy resources.

DEVELOPMENT.

In this paper, the following problematic aspects on the topic "Energy service contracts in the system of contract law of the Russian Federation" will be studied:

- The aspect of inter-scientific relations in research of energy service contracts in the system of contracts of the Russian Federation.
- The aspect of contractual regulation of the energy sector as a whole.
- The aspect of the place of a energy service contract in the contractual system of the Russian Federation.

The study of the problems of energy law, as well as energy service contracts, was carried out by such scholars as Romanova V.V., Lakhno P.G., Vasilchenko A.I., Matveeva E.Yu., Matiyashchuk S.V., Pratura O.S., Ignatieva I.A., Shablova E.G, and others.

The scientific novelty of the research lies in the fact that the authors of this scientific paper for the first time investigate the problems of inter-scientific relations of energy service contracts in the contractual system of the Russian Federation.

Methods.

In this scientific paper, we have used such methods: the general scientific dialectical method which has determined the choice of the research topic and the necessary argumentation basis for

conducting the study, general logical methods of analysis, synthesis, induction, deduction, and also specific law methods, such as formal legal, comparative legal and public-law modeling.

Results and Discussion.

The interdisciplinary nature of legal relations is an important scientific achievement of Kazan Law School[3]. It is worth noting, that the scope of research of this scientific work is not only the inter-sectoral nature of the legal relationship of civil law, but also the inter-scientific nature for the systems of energy legislation, energy sectors of the economy, technical, technological and innovative aspects of energy activities.

In view of this, in a general sense, law is a component of a system of interrelated elements in science. So, for example, when considering issues of recovery of damage in connection with a housing and communal accident, it is impossible to understand and delve into problems without knowledge of housing and communal affairs; on issues arising from monetary, insurance and other related areas it is impossible to resolve without financial and economic knowledge; it is impossible to resolve issues in the field of energy without possession of knowledge in the field of law, economics, mathematics, engineering and technology[4].

The aspect of inter-scientific relations in the study of energy service contracts in the contractual system of the Russian Federation is one of the most popular in the modern scientific energy legal community, due to the presence of those factors that require special knowledge.

In the study of energy service contracts, we cannot limit ourselves to knowledge of purely jurisprudence, since this position is destructive for the improvement of energy science and energy legislation. Thus, in the process of concluding energy service contracts, it is impossible to ignore the Order of the Ministry of Energy of the Russian Federation dated February 4, 2016 No. 67 “On

[3] Chelyshev M.Yu. (2009). The system of inter-sectorial relations in civil law: a civil study. Extended abstract of Cand. Sci. (Law) Dissertation. Kazan, p. 18.

[4] Gubin E.P., Lakhno P.G. (2011). Business Law of the Russian Federation. Textbook. 2nd edition revised and enlarged. Norma; Infra-M, 1008 p. - ISBN 978-5-16-003980-0.

approval of the method for determining the amount of energy resource consumption in natural terms by a calculation and measurement method to implement measures aimed at energy saving and energy efficiency"[5]. It is a set of mathematical formulas for determining energy saving in the process of implementing energy measures (measures aimed at improving energy efficiency and energy saving).

The general formula of one of the methods for determining the volume of consumption for the implementation of measures concerning interior lighting systems is a formula that is derived based on the readings of the devices for metering the energy consumed by the interior lighting system.

The consumption volume is defined as the difference between the meter reading and the volume of consumption in other installations that consume energy, which in turn are connected to the interior lighting system. At the same time, to calculate the volume of power of consumption in plants that consume energy and are connected to the interior lighting system, it is also necessary to use the established formula.

The essence of this formula is reduced to the sum of the values for all installations that consume electrical energy and are connected to the power supply system for indoor lighting. These indicators are determined on the basis of data on the connected power or data on the measurement of power or the amount of consumption of such an installation of electrical energy.

The bulk of the computational indicators at the conclusion of an energy service contract indicates the need for mathematical knowledge by means of which the indicator is determined, what must be achieved by the results of the fulfillment of obligations arising for the contractor from the energy service contract.

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[5] Order of the Ministry of Energy of the Russian Federation No. 67 dated February 4, 2016 "On Approval of the Method for Determining by the Calculation and Measurement Method of the Volume of Energy Resource Consumption in Physical Terms for Implementing Measures Aimed at Energy Saving and Energy Efficiency Increase" (Registered in the Ministry of Justice of Russia on March 25, 2016 No. 41575) // Official Internet portal of legal information http://www.pravo.gov.ru 03/30/2016.

Another factors leading to the conclusion about the inter-scientific nature of the study of an energy services contract are technical, technological, innovative and economic. It is impossible to disagree with the argument that holding energy events is a rather specific activity when using special equipment. In addition, at present, there is becoming significant the issue on energy innovations by means of which the best results will be achieved in the context of increasing the efficiency of energy resources use and energy saving[6]. Also, the process of offering energy services is realized at an energy market (the problems of the energy market are the subject of a separate study) which cannot be analyzed without special knowledge in the field of economics[7].

Based on the above, it seems that the inter-scientific nature of legal research relates not only to issues of the energy sector, but also to other legal areas (most of them), where fruitful activity is impossible in the absence of basic economic and technical, technological, innovative or other knowledge from the point of view of legal support or consulting.

The aspect of contractual regulation of the energy sector is one of the key elements of the regulation of the energy sector as a whole along with self-regulation and government regulation[8]. The contractual regulation of the energy sphere as a whole is the most debatable issue of modern scientific thought due to the fact that there is no unified approach to understanding the legal nature of energy.

In modern legal literature, there are several concepts to determine the legal status of energy:

- Property concept, the essence of which lies in the fact that energy means a thing.

- The concept of "disembodied" definition of energy by analogy with non-documentary securities or non-cash funds.

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[6] Yakupov A.G. (2017). The role of contractual regulation of innovation in the energy sector // Actual problems of modern science. Collection of articles of the International Scientific and Practical Conference, pp. 293-299.

[7] Yakupov A.G. Trends in the development of oil refining in Russia: an economic and legal study // Materials of the II International Economic Forum "Economics in a changing world" dedicated to the 200th anniversary of the birth of Karl Marx.

[8] Svirkov, S.A. (2013). The main problems of civil law regulation of energy turnover. Monograph. Statute, 479 p.

- The non-proprietary concept that understands by energy not a thing (goods), but a certain mechanism aimed at the transfer of energy to the consumer.

There is a long discussion on this issue; however, in our opinion it is necessary to adhere to the concept of “incorporeal” things in view of the fact that energy as a product appears in various energy and legal legislation.

Energy service contracts are one of the energy contracts that are used in the process of contractual regulation of energy[9].

The question about the place of an energy service contract in the contractual system of the Russian Federation should begin with a legislative definition of the energy service contract (agreement). Thus, Article 19 of the law on energy saving states that “the subject of the energy service contract (agreement) is the implementation by the contractor of actions aimed at energy saving and increasing the energy efficiency of the use of energy resources by the customer”. It is worth noting the sides of an energy service contract - the customer and the contractor.

If we refer to the etymology of the words "energy service", then it is worth noting that their essence lies in the provision of services related to energy[10]. This indicates that this contract in its essence and legal structure is attached to the service contract. However, it is necessary to say that there is a goal indicated in the subject matter of the contract - energy saving and increasing energy efficiency, which indicates that the goal is an essential condition of this contract along with the requirements specified in part 2, Art. 19 of the energy saving law (the value of savings and the term of validity of the energy service contract).

If we draw an analogy with the service contract, where the quality of the services provided is an essential characteristic (not a condition of the contract), then in the case of an energy service contract, the amount of savings is the goal of the essential condition of the contract, in the absence

[9] Romanov, V.V. (2013). Energy law. General part: Tutorial, p. 120.

[10] A.I. Vasilchenko (2014). Energy service contract as a legal instrument for the implementation of energy saving activities // Law and Politics. - 2014. - № 9. - p. 1368-1372. Doi: 10.7256 / 1811-9018.2014.9.12765

of which the contract will be considered as not concluded. There are also those signs in the energy service contract that are similar to contractual relations, which is sometimes noted in legal literature[11]. In our opinion, this position is incorrect, since the main difference between an owner-contractor agreement (works contract) and a service contract is the materialized nature of the work result, while the result of the energy service will be energy saving and energy efficiency achieved by performing actions (energy service activities).

In summary, as a result of the study, the authors came to the following conclusions:

- legal research and practice in the field of energy (as well as in other industries) is of an inter-scientific nature, due to the fact that in addition to knowledge of law, it requires special economic, financial, technical, technological, innovative knowledge and skills.

- It is necessary to legislate a state approach to the interpretation of energy as a "disembodied" thing.

- The energy service contract is by its nature a service contract, but does not repeat its signs completely, which indicates the independent nature of the energy service contract.

- Further study of the problems will enrich the theory of law[12], sectoral legal science and will be useful for professionals in the field of energy industry.

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[11] A.I. Vassilchenko. Ibid., p. 1370.

[12] Okriashvili T.G. The principle of responsibility without guilt in the context of law types: theoretical analysis // Academy of Marketing Studies Journal. 2016. V. 20. № Special Issue1, pp. 45-49; Gorshunov D.N., Okriashvili T.G. Private law principles in social processes: problem statement // Academy of Marketing Studies Journal. 2016. V. 20. № SpecialIssue1. Pp. 33-38; Okriashvili T. G, Yakupov A. G. Methodology for the Concept of the Unity of the Claim Category in the Material and Procedural Sense // Revista Publicando. – Vol. 4. – Issue 13. – PP. 578 – 584.

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9) Romanov, V.V. (2013). Energy law. Overview: Textbook. M., p.120.

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