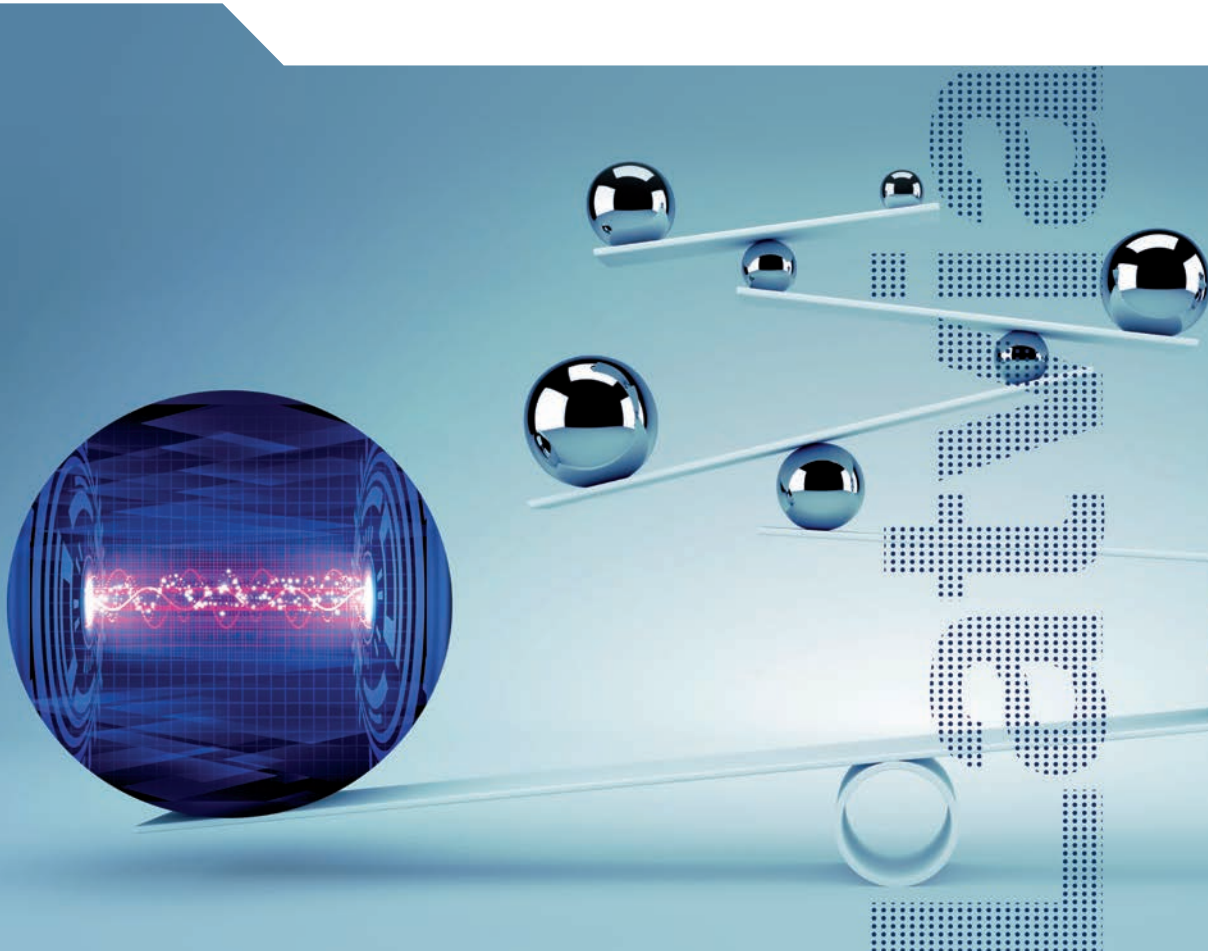




The Governance of Regulators

Driving Performance at Latvia's Public Utilities Commission



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Foreword

To successfully regulate markets, regulators need to be constantly alert, informed by live-data, checking sectoral trends and assessing the impact of their decisions. Measuring regulators' performance is therefore essential, but by no means easy. To help regulators in their quest for better performance assessment, the OECD has developed an innovative framework that looks at the institutions, processes and practices that help regulators assess their performance.

This review applies the Performance Assessment Framework for Economic Regulators (PAFER) to Latvia's Public Utilities Commission, which is responsible for regulating energy, communications, postal services, water and waste. The review offers unique insights into the work of a multi-sector regulator, identifying the organisational features that allow lessons and experiences to be shared across sectors and contribute to good performance. As delivery is not just a responsibility of the regulator, the review also highlights the importance of a governance environment that supports performance and helps effective performance measurement.

The review recommends greater clarity on the role and functions of the regulator and its relationship with other public institutions to ensure effective delivery and appropriate accountability. It also draws attention on the importance of dispelling any risk of conflict of interest on the decision of the resources to be allocated to the regulator, especially in Latvia, where the state remains very present in the regulated sectors.

The review also stresses the need for the regulator to be proactive and innovative in its operations and market oversight. It recommends a greater use of regulatory tools that provide appropriate incentives to operators and the market for the efficient and effective provision of public utility services. It also highlights the importance of developing a long-term strategy and a performance assessment matrix that links goals and priorities to outputs and outcomes, greater use of performance data to communicate with stakeholders and the use of data for developing choice tools for consumers.

This report is carried out as part of the OECD work programme on the governance of regulators and regulatory policy led by the OECD Network of Economic Regulators and the OECD Regulatory Policy Committee with the support of the Regulatory Policy Division of the OECD Public Governance and Territorial Development Directorate. The Directorate’s mission is to help government at all levels design and implement strategic, evidence-based and innovative policies. The goal is to support countries in building better government systems and implementing policies at both national and regional level that lead to sustainable economic and social development.

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Acronyms and abbreviations

ACER	Agency for the Cooperation of Energy Regulators
BEREC	Body of European Regulators for Electronic Communications
BNetzA	<i>Bundesnetzagentur</i> (Federal Network Agency for Electricity, Gas, Telecommunications, Post and Railway)
CEER	Council of European Energy Regulators
CPI	Consumer Price Index
CRE	<i>Commission de régulation de l'énergie</i> (Energy Regulatory Commission, France)
DSOs	Distribution System Operators
HHI	Herfindahl–Hirschman Index
ICER	International Council of Energy Regulators
NER	Network of Economic Regulators
NGA	Next Generation Access
PAFER	Performance assessment framework for economic regulators
PUC	Public Utilities Commission

Executive summary

Latvia's Public Utilities Commission (PUC) is a multi-sector regulator, responsible for electronic communications, energy, postal services, water management and waste disposal. In these sectors, apart from the gas sector, where the incumbent is a foreign-owned monopoly, public ownership of operators is significant. Especially in this context, protecting the regulator from undue influence, setting clear roles and objectives for the regulator and assessing and communicating performance can be key success factors.

The PUC is recognised as an independent and well-performing regulator. The governance environment supporting the work of the regulator can be improved to dispel any risk of undue influence on the work of the regulator. The PUC's operations and internal structures also have important and valuable assets that could be further enhanced.

Role and objectives of the regulator

The multi-sector model has been effective in protecting the PUC from undue influence from government and operators, as there is no financial dependence on any specific sector or large utility.

Goals assigned to the PUC include promoting consumers' interests, competition and the development of public utilities. These goals entail a balancing act that can be particularly difficult in Latvia, where public utilities' shareholders are often ministries. The PUC has also relied mostly on cost-plus regulation, which does not offer an incentive to operators to improve efficiency. The choice of this methodology is in part motivated by the fact that most operators are state-owned enterprises, which are less subject to economic or profit targets in Latvia. With the expected further opening of the regulated sectors, priorities will need to be set and the appropriateness of regulatory tools reconsidered.

Given the PUC's broad remit and Latvia's regulatory context, there are many areas where the PUC and ministries interact. The PUC is actively involved in issuing opinions on draft laws and regulations. This important mission aimed at improving the regulatory framework needs to be balanced

against the significant resource commitment and the risk of mixing up policy functions and regulatory functions, if the regulator becomes the main source of analysis for proposed legislation.

Key recommendations

- Clarify goals and priorities and focus on high-level goals and related outcomes, aligning functions with these outcomes through a revamped strategic planning framework.
- Ensure that regulatory functions are fit-for-purpose, including through the use of incentive regulation and the power to amend tariff proposals.
- Continue to provide expert advice for the development of regulation, while remaining within the role of an independent regulator, including by releasing opinions publicly and relying on the media and other accountability avenues to draw attention to them.

Input

The PUC is financed through fees levied on operators, which flow through the State Treasury, are included in the State budget and appropriated by Parliament. This process guarantees independence and accountability. The PUC also autonomously allocates the budget along functions and missions rather than sectors, guaranteeing some distance from the regulated industries.

The ceiling of the regulatory fee is set in law but the actual level is decided by the Cabinet of Ministers, where a number of ministries are shareholders of the regulated public utilities. This procedure creates a potential conflict of interest and can become an avenue for exercising undue influence on the regulator.

The PUC has a well-established system and process for attracting capable staff and there has been a concerted effort to develop skills and facilitate staff development. Staff retention has not been a problem so far. However, the PUC is subject to a civil service-wide salary cap, which needs further assessment. As the level of seniority increases, salaries increase much more slowly than in the regulated sectors, reaching a 20-40% gap for top positions.

Key recommendations

- Advocate for an alternative process for setting the regulatory fee, either by relying exclusively on the legislated ceiling or through some independent council or body,
- Develop a “total rewards” approach to attract and retain staff, taking into account financial and non-financial incentives, while further investigating the possible long-term effects of the salary cap.

Process

The Board is the PUC’s decision-making body. The Cabinet of Ministers nominates the candidates after an open call for candidatures. The nominees are appointed by Parliament following public hearings. There is currently no requirement in Latvian legislation for staggered terms, which can create a vacuum and undermine institutional memory.

An overall culture of transparency and public engagement informs the decision-making process. The PUC consults systematically when planning regulatory measures and stakeholder contributions are systematically collected and presented on the PUC’s website, with justifications for accepting or refusing them. The PUC also organises public hearings on tariff proposals.

The PUC is ultimately accountable to Parliament. However, Parliament exercises a relatively informal oversight over the PUC. Contacts with Parliament take place more often through informal exchanges.

A distinguishing feature of the PUC is the effective use of a multi-sector model to pool expertise and facilitate the diffusion of good practices and lessons learned across the institution. The PUC has been successful in developing a joined-up approach that builds on a single economic analysis department organised along functions and a single legal department that supports all the different sector departments.

Key recommendations

- Advocate for staggered terms for Board members.
- Exploit further the multi-sector model, facilitating mobility across sector departments and unleashing opportunities for innovation and experimentation.
- Introduce more regular and formal exchanges between Parliament and the PUC.

Output and outcome

The PUC collects data and information on regulated public utilities and surveys both industry and consumers to assess its performance. However, data on outputs and outcomes are not yet explicitly linked to key market trends that can be attributed or affected by regulatory interventions. Measuring the quality of internal processes could be further developed. There are also untapped opportunities for better informing the Board on progress in achieving goals and objectives and using data for improving consumers' choices.

Key recommendations

- Develop a performance assessment matrix that links goals and priorities to outputs and outcomes.
- Use performance information to communicate with key stakeholders, especially Parliament.
- Explore the use of data to develop choice tools for consumers, either directly or indirectly.

Assessment and recommendations

Role and objectives of the regulator

Latvia's Public Utilities Commission (PUC) is a multi-sector regulator, responsible for electronic communications, energy, postal services, water management and waste disposal. Among these sectors, electronic communications and, to a less degree, electricity are relatively open to competition. Gas remains in the hands of an integrated monopoly (with unbundling and opening expected in 2017). Water is very fragmented, with approximately 140 operators (67 of which are sufficiently large to be regulated by the PUC).

In all these sectors supervised by the PUC, with the exception of the gas sector where the incumbent is mostly owned by foreign companies, public ownership of operators is significant. Electricity generation and transmission remains in public hands, albeit legally unbundled. In the telecommunications sector, the incumbent operator – a vertically integrated broadband and fixed access provider – is also a state-owned enterprise. Municipalities own most water operators.

In this context, protecting the regulator from undue influence and setting clear roles and objectives for the regulator are particularly important. Independence and role clarity can help ensure good performance of the regulator and an adequate supervision of the regulated sectors.

The PUC is not subordinated to state or local government institutions, a particularly important feature in the Latvian context. The PUC performs the functions delegated by law. Within the scope of these functions, the PUC issues administrative acts binding upon specific providers and users of public utilities. There are no cases when the government can instruct and guide the PUC on specific regulatory functions.

The multi-sector model has also been effective in protecting the PUC from undue influence from government and operators, as there is no financial dependence on any specific sector or a large utility. The PUC had been originally established as a derived public institution “under the supervision of the Ministry of Economy”. This status was creating some ambiguities on the relationship between the PUC and the Ministry. In 2011, the PUC was successful in advocating to Parliament a stronger independent

legal status, becoming an autonomous public institution, without any formal supervisory role of the Ministry of Economy.

The PUC's independence has also benefitted from a climate of transparency and openness in the policy-making process. Latvia has an open consultation system that allows for contributions and inputs from all state administration institutions for the preparation of draft legal acts. Objections and comments are open and need to be resolved in a transparent way.

Goals assigned to the PUC include promoting consumers' interests, competition and the development of public utilities. These goals might entail a particularly difficult balancing act between consumers and investors/shareholders of public utilities, which in the case of the PUC are often sector ministries. The 2000 Law on Regulators of Public Utilities is the legislation that grants regulatory authority to the PUC, defining its functions and powers, its status *vis-à-vis* other public institutions, the structure, appointment and functioning of the decision-making body. Primary legislation further refined the specific functions and role of the PUC in specific sectors. Under the functions assigned to the PUC, the Law includes three goals: i) promote the interests of consumers; ii) promote the development of public utilities; iii) promote competition.

Functions are relatively broad and also include supervision of compliance with contractual arrangements, which tend to be less common among economic regulators. The Law on Regulators of Public Utilities gives the PUC the following functions: a) tariff methodology and determination; b) dispute resolution; c) supervision of compliance with licence conditions, quality standards, contractual provisions; d) advisory role to ministries; e) information provision (on PUC activities and the activities of the public utilities).

To develop tariffs, the PUC has relied mostly on cost-plus regulation, which does not incentivize efficiency of operators. The almost exclusive reliance on this methodology needs some reconsideration, especially in response to greater competition in the regulated sectors and the need also for state-owned enterprises to make better use of their resources (and transfer some of these benefits to consumers). The cost-plus tariff methodology entails adding an acceptable profit to the expected costs incurred by the operator. The PUC has rarely used incentive regulation, which builds into the tariff some improvement requirements, rewarding efficient operators and penalising less efficient ones. The choice of the cost-plus methodology by the PUC is in part motivated by the fact that most operators are state-owned enterprises which are less subject to economic or profit targets in Latvia.

To determine tariffs, the PUC can accept or reject tariff proposals prepared by operators and can request a recalculation but cannot amend these proposals. These require some back and forth between the regulatory and the operators that could be simplified and shortened by granting the regulator the power to amend the tariff applications. Operators submit substantiated tariff proposals, which the PUC approves or rejects after performing an assessment of the estimated costs and profits. The PUC can also request a recalculation of the tariff proposal in case the PUC finds that the calculations are incorrect or the costs included in the tariff calculation are not substantiated. The PUC has 90 days to evaluate a tariff proposal and 30 days to approve or reject a tariff proposal. If the PUC requests additional information, the 90 days can be extended. In these cases, an additional five to six months are needed before the tariff is approved by the PUC. Tariffs are reviewed if an operator submits a new tariff proposal or the PUC initiates a review of an existing tariff.

To meet its goals, the PUC has developed a strategic framework, which however currently focuses more on functions than on outcomes and falls short of setting clear priorities. The PUC's strategic framework includes a 2-year strategy that identifies the main strategic directions for the regulator. The strategy starts with a broad mission statement in line with the goals of the regulator, i.e. balancing the interests of service users and providers and further the development of public services. It then includes a vision statement, i.e. to become one of the most reliable and open public authorities by implementing new regulatory frameworks and improving the existing ones. It goes on to identify four main strategic directions: i) provision of regulation; ii) monitoring of companies; iii) quality control; iv) participation in international organisations. On the provision of regulation, the strategy identifies some priorities by sector (e.g. in the electronic communications sector – regulation, monitoring of markets for access and imposition of obligations in these markets). The PUC also prepares an annual action plan that is expected to implement these strategic directions. The annual action plan is structured along the goals and functions identified in the 2000 Law on the Regulators of Public Utilities. The plan is loosely related to the strategic directions.

Identifying expected outcomes, setting priorities and aligning the work of the organisation with these outcomes and priorities are essential to respond to changes in the regulatory environment. From April 2017, as provided in EU regulation, natural gas transmission system operators and distribution system operators will need to be separated and the PUC's control functions will also need to be reviewed. These changes are likely to impact the PUC in terms of competencies and responsibilities. Other changes might come in the foreseeable future in response to

developments in the EU regulatory framework that largely determines the regulation in all sectors overseen by the PUC with the exception of waste management and, to some degree, water.

The PUC's broad remit and Latvia's regulatory context entail a wide range of areas and issues where the PUC and sector ministries interact, and the PUC is actively involved in issuing opinions on draft laws and regulations. Within its role as an independent regulator, the PUC has been very active in providing expert advice for the development of the normative environment for the regulated sectors. On average, the PUC issues a recommendation or opinion on draft legislation approximately once every two weeks. This function is viewed by the PUC as an important mission to improve the regulatory framework of the regulated markets and simplify the PUC's task of implementing the legislation once it has been approved. Exercising this function requires a significant resource commitment. The regulator could also become the main source of analysis for proposed legislation, with the risk of mixing up policy functions and regulatory functions.

Beside and beyond the preparation of formal opinions, the PUC is proactive in co-ordinating and exchanging information, facilitating a good working relationship with the key institutions regulating the sectors. Formal processes and co-ordination agreements are complemented by regular informal exchanges at the technical and political levels with sector ministries, the competition authority and the institution responsible for consumer protection. There are regular meetings between, for example, the Minister of Economy, State Secretaries and the PUC Board. These formal and informal arrangements contribute to a good working relationship across institutions. The challenge is to ensure that these informal channels of communication remain open and effective when officials change.

Recommendations

- ***Focus on high-level goals and related outcomes and align functions with these outcomes.*** The strategic planning framework should start with the high-level goals that have been granted to the PUC (e.g. consumers' welfare, competition) and include some key objectives and outcomes related to these goals that the PUC aims to achieve over the medium-term (5 or 6 years for example). These objectives and outcomes could be based on an analysis of the major trends and scenarios in the regulated sectors. The annual action plan needs to be the implementing tool of this medium-term strategy. It should provide a matrix of how the different functions and powers of the PUC can be used to achieve these goals, with some intermediate performance indicators to measure progress.

- ***Clarify goals and priorities.*** Within the remit provided by the relevant legislation, the PUC should use its strategic planning framework as a tool to clarify goals and setting priorities related to outcomes. In its decisions, the PUC has paid particular attention to consumer welfare; this attention should be reflected in the strategic framework as a key priority if the PUC intends to pursue it. Identifying some key priorities should also help clarify the relationship between different goals. For example, the 2000 Law on Regulators of Public Utilities assigns the PUC the role of developing public utilities. The focus on public utilities, which might have been relevant before the opening of some of the regulated sectors, would need to evolve into a greater attention for adequate investment in the sectors. If the PUC intends to further consumer welfare, the ultimate objective of developing public utilities needs to be more explicitly related to current and future consumers' access to services of adequate quality rather than the development of operators *per se*, the latter being the concern of the operators' shareholders. For example, the PUC could clearly explain how it will balance consumer and public utility interests. Overall, the focus should be shifted away from a utility-centric approach to an approach more focused on market outcomes and current and future consumers.
- ***Ensure that regulatory functions are fit-for-purpose.*** Some of the core regulatory functions would need some re-thinking. Greater focus on outcomes, with a particular attention to consumers' welfare and the overall performance of the regulated sectors, would require re-orientating the approach in setting tariffs towards the ultimate objectives of promoting competition and benefitting the consumers. This approach would also bring the tariff setting approach in line with the relevant provisions in the European framework (e.g. the 3rd Internal Energy Market package and the 2009 Framework for electronic communications). For example, using incentive regulation (starting with price-cap or revenue cap approaches) could create efficiency gains that could be in part transferred to consumers through greater service access and quality. Also, in addition to the power of requesting tariffs' recalculations and revisions, which the PUC already has and uses, the PUC should be given the right to amend tariff proposal so that it could more actively steer the determination of tariffs. In addition, if some of the functions currently assigned to the PUC divert too many resources from the core regulatory functions of the PUC, such as tariff setting and market analysis, the PUC and the government could consider the

possibility of transferring some of these functions to other public institutions. This could be for example the case for the supervision of compliance with contractual obligations.

- ***Assess how best to continue participating in the policy making process without losing sight of the PUC's core regulatory functions and the PUC's independence.*** The PUC should continue to provide expert advice for the development of relevant regulation by issuing opinions on draft regulation. This function can help improve the regulatory framework and facilitate implementation. However, the PUC should remain in its role of an independent regulator and make sure that this activity does not divert too many resources from the core regulatory functions. Unless this is explicitly provided for, the PUC should not become the adviser or the main analytical source of sector ministries. The PUC should release its opinions publicly and use the media to draw attention to them if this is needed, to signal even more clearly its role as an unbiased supervisor of the regulated sectors.
- ***Set up appropriate institutional mechanisms for developing and overseeing the implementation of the strategic framework.*** The processes and institutions in charge of developing and overseeing the strategic framework are important to reflect the relevant information and analysis and ensure ownership of the strategy. The PUC could consider establishing an advisory board, composed of representatives of Parliament, other regulators (for example, the competition authority and the consumer protection authority), the regulated sectors and consumers. This advisory board could help consult and communicate on key sector scenarios and priorities for the PUC strategy. The PUC could also complement the advice of this board with wide public consultation on the strategy as done by other regulators. Internally, the PUC could also set up a strategic co-ordination group, composed of heads of PUC divisions/departments, to steer the development and implementation of the strategy and take stock of progress.

Input

The funding source and the budget process guarantee a certain independence and accountability of the PUC. The PUC is financed through a regulatory fee on the net turnover of the public utility providers in the previous financial year. The PUC does not directly collect the regulatory fees. Rather, the fees flow through the State Treasury and are included in the State budget and appropriated by Parliament. If the fees paid for the

regulation of public utilities in the relevant year exceed the costs met by the PUC, the extra funds are set aside to pay for the activities of the following year and the fees are reduced to take into account this “overpayment”.

The PUC is autonomous in implementing its budget, allocating it along functions and missions rather than sectors to guarantee some distance from the regulated industries. The PUC can use its budget funds according to the law on the budget for the respective year and according to the financing plans approved by the Ministry of Finance and State Treasury. It allocates its budget on the basis of the functions and missions it carries out. This approach helps ensure some distance from the regulated industries and dispel the perception of being close to or dependent on the industries the PUC regulates.

The way in which the fee is set – a decision of the Cabinet of Ministers – raises some concerns that need to be addressed, especially in the Latvian context where state-owned enterprises are important actors in the sectors overseen by the PUC. The ceiling of the regulatory fee is set in law but the actual level is decided by the Cabinet of Ministers, which includes a number of ministries that are shareholders of the public utilities regulated by the PUC. As a consequence, the exclusive role of the Cabinet of Ministers in setting the fee creates a potential conflict of interest, can become an avenue for exercising pressures on the regulator and create tensions between the regulator and the executive.

In effect, in 2008, amidst the financial crisis, the fee was reduced from 0.2% to 0.17% of the public utility providers’ net turnover and has not been increased since then. While this decision could have been justified by wider public policy considerations, it does have an impact on the resources at the disposal of the PUC, whose mission and functions have evolved (the PUC took over responsibilities for district heating, water supply, sewage and waste disposal that were previously exercised by municipal regulators in 2009).

The PUC has a well-established system and process for attracting capable staff. The expertise of the PUC is recognised by stakeholders within and outside government. Staff are mostly professionals—about 80% of the workforce—about half of them technical engineers and sector experts, the other half with horizontal skills like economic analysis, law, accounting, strategic management. The workforce has been relatively stable between 2013 and 2015 – 132 staff members in 2015, plus 7% compared to 2014 – and the turn-over limited – approximately 7% in 2014.

There has been a concerted effort to develop skills and facilitate development of staff. The PUC regularly measures staff satisfaction through individual performance assessments, occasional questionnaires and

internal workshops. This process is also used to determine the needs for further trainings (for example, particular expertise, languages, IT), improve the work environment and offer career development opportunities. Internal staff mobility is relatively limited given the highly technical expertise of most staff, but there are some opportunities to work across sectors through transversal projects.

Performance assessment of staff is aligned with the objectives identified in the PUC’s annual action plan and staff evaluation and feedback contributes to the development of the forthcoming action plan. Individual targets are derived from the targets and objectives identified in the action plan. Staff performance is evaluated every year in September-October to get feedback on implementation of the action plan of the current year and contribute to the development of the action plan for the forthcoming year. As the action plan is finalised in January, the PUC is considering conducting staff evaluation in December-January to better align staff evaluation with the preparation of the annual action plan.

The current salary system – civil service-wide cap – needs further assessment, especially on the extent to which this system could weaken the capacity of the PUC to keep up with industry developments and retain talent in the long term. The PUC follows a unified wage system for public institutions. Salaries cannot exceed the monthly average salary in the country multiplied by a coefficient of 4.05. The financial regulator, whose budget is outside the state budget, follows a somewhat different rule, whereby the monthly average salary of reference is the one of the financial industry. There is no mandated cap on different grades and positions within the PUC. Rather, the cap limits the top salaries, specifically the salary of the PUC Chair, with the other salaries set below this limit according to a salary scale decided by the PUC. Every 2 years, the PUC commissions an analysis of the remuneration trends in similar institutions and the regulated sectors. On the basis of this analysis, the PUC updates the salary scale within the allowed cap. The most recent analysis commissioned by the PUC in 2015 shows that salaries for junior positions are above the median salary for the regulated sectors. However, as the level of seniority increases, salaries increase significantly slower than the trend in the regulated sectors, reaching a 20-40% gap for top positions.

Recommendations

- ***Advocate for an alternative process for setting the regulatory fee which guarantees adequate accountability, minimises the risk of conflicts of interests and prevents potential undue influence.*** The regulatory fee could be set in primary legislation, without the need for a modulation within a ceiling. This approach would need some

mechanism for allocating potential overpayments without revising primary legislation every year. Alternatively, the regulatory fee within the legislated ceiling could be set either by a relevant parliamentary committee or through some independent council modelled for example on the independent fiscal institutions that provide an independent advice on government forecasts for the national budget in some countries. Under this setting, the PUC would define the costs to be incurred for regulating the sectors and make a proposal to the independent council, which would validate the PUC's assessment. The independent council could either set the fee or make a recommendation to the Cabinet of Ministers. If the latter option is retained, ministers who are also shareholders of the regulated operators should not participate in the decision.

- ***Further investigate the possible long-term effects of the salary cap on the capacity of the regulator to attract, retain and develop talent.*** In the case of the PUC, the unified wage system leads to a certain compression of the salary scale, with a gap between senior positions in the PUC and comparable positions in the regulated sectors. The low turnover suggests that the salary cap is not currently a problem. However, it might become a problem in the future with the evolution of the PUC functions and the need to attract new talent for senior management positions. It could also create a disincentive for staff to seek promotions as the increase in responsibility comes with a relatively small increase in salary. These aspects need to be further analysed, substantiated and discussed with other similar public institutions before being discussed with government and parliament. The effects and problems experienced by the PUC could be in fact common across public institutions and simply seeking an exception for the PUC might not be a politically viable solution.
- ***Develop a “total rewards” approach to attract and retain staff.*** This approach should present remuneration not only as financial incentives (for example, base pay, bonuses, benefits) but also as non-financial incentives (for example, professional development, work-life balance, enabling environment, quality of work). It could be modulated to the different needs of staff to meet different needs and demands of current and future staff.

Process

The structure of the governing body appears to safeguard the regulator from pressure and biases. The Board – a Chair and four Commissioners – is the PUC's decision-making body. The Cabinet of

Ministers nominates the candidates to the positions of Chair and Commissioner after an open call for candidatures advertised in the media and the government website. The nominees are submitted to Parliament, which appoints them after conducting public hearings. Board members serve for five-years and can be re-appointed only once. They cannot be removed from office except for serious misconduct (defined in legislation). Board members cannot hold other offices or appointments within and outside government during their term in office. They are obliged not to take any interest (for examples shares) or work in the regulated industries for two years after leaving the PUC.

Decisions of the Board are taken transparently, with the respective positions of different Board members on records accessible to the public. As set in the PUC's enabling legislation, Board members vote on all decisions and the results of the votes are recorded in the minutes, specifying the vote of each Board member separately for each issue examined.

The absence of staggered terms for Board members can negatively impact the work of the Board and therefore the performance of the regulator. There is currently no requirement in Latvian legislation for staggered terms, although an appropriate rotation scheme for the board is included in EU directives on electricity and gas markets. In the first semester of 2016, the terms of three Board members come to an end relatively close to each other. Besides the risk of having a vacuum (the Board cannot act without at least three members), continuity and institutional memory could be at stake with such an overhaul of Board membership. The PUC is aware of this issue and is advocating for a change in legislation that would allow for staggered terms of Board members.

There is a two-year “cooling off” period for Board members, which is somehow impacting the recruitment of Board members. No particular restrictions exist for staff members. In line with Latvian legislation, Board members cannot become shareholders, stockholders, and partners or hold an office in those commercial companies over which they have exercised supervision, control or sanctions for two years after the end of their terms. Most Board members come from the public sector or state-owned enterprises not supervised by the PUC as they can more easily go back to their respective organisations/institutions after their term finishes.

An overall culture of transparency and public engagement informs the decision-making process of the regulator, reflecting to a large extent an approach that is well established in Latvia’s policy-making process. The PUC consults systematically when planning regulatory measures and reporting on the regulated sector. It issues a consultation document that sets out planned steps and options. Stakeholder contributions are systematically

collected and presented on the PUC's website, with justifications for accepting or refusing them. The PUC also organises public hearings on tariff proposals.

Operators can participate in the meetings of the Board. While this opportunity could pave the way for pressures on the Board's decision, transparency of the decision-making seems to be a strong guarantee against these potential pressures. Board meetings are open to the public. Operators are invited to participate in the Board meetings when there is a topic on the agenda directly concerning them, and they usually participate in Board meetings. Opinions or proposals of operators are recorded in the minutes of the meeting.

The PUC is ultimately accountable to Parliament, which exercises a relatively informal oversight over the PUC. Every year, the PUC submits to Parliament a written report on the activities conducted in the previous year and a full financial statement audited by a sworn auditor. This information is published on the PUC's website. Presentation of the annual report to Parliament does not usually give rise to a debate and is not accompanied by a hearing of the PUC in the Economic Committee, which is more directly concerned with the sectors regulated by the PUC, or any other committee. Contacts with the Economic Committee take place more often through informal exchanges of Board members with committee members, who tend to be more interested in the smooth provision of public utility services than on the management of the regulator.

Like all public bodies, also the PUC is subject to the control of the State Audit Office, Latvia's supreme audit institution. The State Audit Office does not consider the PUC as a high-risk institution and has not conducted any performance audit of the regulator.

Internally, beside the Board, the PUC is structured in a way similar to a number of other regulators, with an executive body that serves as the Board secretariat, performing all the analyses and ground work leading to the Board's decisions. The executive body is headed by an Executive Director, who reports to the Chair. Directors of departments report to the Executive Director (with the exception of the heads of the communications, and external relations divisions, who report directly to the Chair).

A distinguished feature of the PUC, however, is the effective use of a multi-sector model to pool expertise and facilitate the diffusion of good practices and lessons learned across the institution (beside the pooling of administrative services), which can positively contribute to the performance of the PUC and add significant value. The locus of this joint-up approach lies in having a single economic analysis department organised along functions rather than sectors and a single legal department

that support all the different sector departments (energy, municipal services and rail transport, electronic communications and post). It is in these two “horizontal” departments where common processes and procedures are developed for, for example, approaching tariff development (even if methodologies would differ across sectors as provided in the respective legislation) or responding to appeals and court cases. It is also here where the knowledge of the experiences of the different sectors is accumulated and shared. As different sectors can be at different stages of, say, liberalisation or implementing registration of service providers (as opposed to licensing), the experience and learning accumulated by one sector can benefit another sector. Companies that operate in different sectors – for example, television and broadband companies providing also electricity services – see a clear advantage in having common practices such as accounting standards applied to different sectors. These two “horizontal” departments also exercise a quality control on the proposals and analyses developed for the Board, which could in part contribute to a certain solidity of the PUC’s decisions, as also evidenced by a relatively low level of appealed decisions.

The PUC also had three regional offices (staffed with two employees each) that provided information and support to small companies operating in district heating and the water sector by, for example, clarifying regulation and helping these companies with regulatory reports. The offices conducted a first scrutiny of the tariff proposals and organise public hearings on tariffs. The regional offices were originally established to “gain” the support of municipalities in transferring regulatory responsibilities from municipal regulators to a single state regulator. Due to the reduction in financial resources, the regional offices were closed in March 2016.

The PUC is recognised as an independent and well-performing regulator, with no blinking yellow or red lights for the time being. Its internal structure has important and valuable assets that could be further enhanced. Without weakening the quality controls that are currently in place and appear to be serving the PUC well, some internal procedures could be streamlined as it appears that there is a certain reluctance to give more responsibilities to department and division heads. There could be also more room for innovative approaches, for example in experimenting new solutions or approaches to tariff methodologies (as recommended above) or benefitting more from new techniques like the application of behavioural insights. These ideas could emerge, for example through greater mobility of staff across sectors.

Recommendations

- ***Advocate for staggered terms for Board members.*** Staggered terms are essential to ensure continuity and stability in the work of the Board. The staggering could include introducing fixed start and end dates for Board members' office terms and renewing a Board member per year.
- ***Exploit even further the multi-sector model and facilitate mobility across sector departments.*** The two horizontal departments – legal and economic analysis – with a focus on functions rather than sectors for economic analysis make the PUC "greater than the sum of its parts", facilitating common approaches to regulating different sectors when possible. Encouraging mobility of professional staff from one sector department to another could further enhance horizontality and stimulate innovation. Highly specialized professionals can have a good knowledge of the sector but they might miss opportunities for exploring new areas of work and learning. As there are a number of cross-cutting issues across sectors, sector experts could be well-versed in issues facing other sectors and could bring added value to other sector departments.
- ***Introduce more regular and formal exchanges between Parliament and the PUC.*** Accountability and performance could be enhanced through more regular and formal exchanges between Parliament and the PUC on the internal working of the regulator and, equally important, on the main trends and scenarios for the sectors that the PUC regulates. For example, annual public hearings in the Economic Committee of Parliament could help alert parliamentarians and, indirectly, other key stakeholders like sector ministries, operators, investors and the wider public, on forthcoming developments and possible areas that need attention. Also, there could be a periodic independent evaluation of the functioning of the PUC, for example through the Supreme Audit Office or any other external body.
- ***Evaluate the ethics framework and consider whether any adjustments are needed.*** Cooling-off periods can contribute to marking a clear boundary between the regulated industry and the regulator and counteracting potential conflicts of interest. The two-year cooling-off period imposed on Board members after they leave office is in line with what a number of OECD and non-OECD economic regulators have. For a small country like Latvia, however, the impact in terms of diversity of background in the recruitment of Board members can be significant. This impact could be minimised

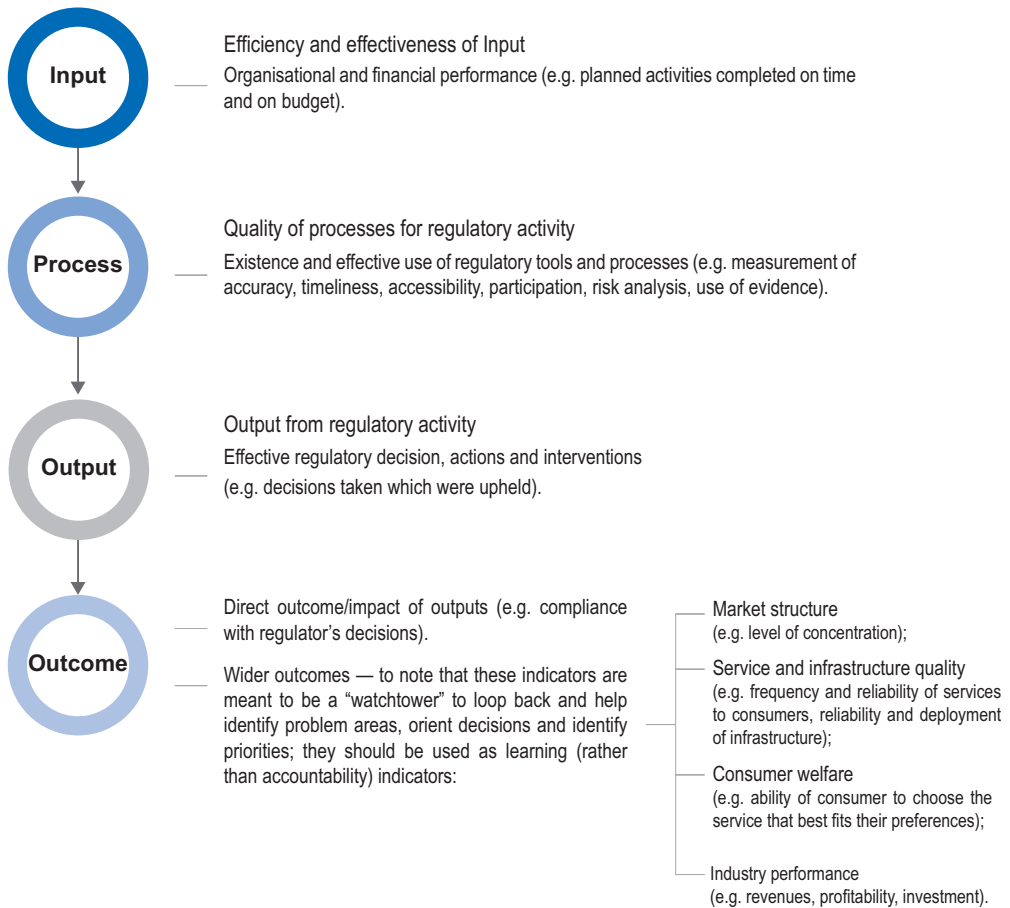
by offering some compensation to Board members during the cooling-off period. In addition, for staff members, where there are no restrictions on pre- or post-employment, the PUC could consider whether this is potentially creating any conflict of interest and set up some control mechanism to ensure that this does not happen.

Output and outcome

The PUC collects data and information on public utilities for the sectors it regulates. Operators have to report financial, technical, operational and other data monthly, quarterly or annually. A manual prepared by the PUC helps operators collect this information. The PUC provides good guidance, and regulatory reports are not perceived as too burdensome or demanding for operators. The PUC uses the data for market monitoring and price monitoring (where applicable), analysing technical performance and the development of operators.

In addition to measuring and monitoring the sectors it regulates, the PUC also conducts a self-assessment through surveys of both industry and consumers. Surveys have been commissioned annually since 2013. This enables the regulator to understand how these two groups of stakeholders view its performance.

Data collected on outputs and outcomes are not yet explicitly linked to some key market trends that can be attributed or impacted by regulatory interventions; data collected should be aggregated at the level of relevant markets to allow statements on the market structure and the state of competition of the markets for an assessment of the effectiveness of regulatory interventions. The measurement of the quality of internal processes could be further developed. The PUC already collects data on, for example, the number of inspections conducted and random checks of services provided. In addition, the data collected on service providers are used for the analyses of actual costs of the service provided, as well for analysing the scope of the service provided. An additional step would consist of putting these data in the context of the PUC's interventions (the outputs), the wider market developments (the outcomes) and the resources that the PUC has at its disposal (the inputs) (see Figure 1).

Figure 1. **Input-process-output-outcome framework for performance indicators**

Note: This framework was proposed in the initial methodology for the performance assessment framework for economic regulators (PAFER) discussed with the OECD Network of Economic Regulators (NER). It has been refined to reflect feedback from NER members and the experience of other regulators in assessing their own performance.

Source: OECD (2015), *Driving Performance at Colombia's Communications Regulator*, Figure 3.3, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264232945-en>.

The use of data and performance information is somewhat underdeveloped. The main official/formal communication tool of the PUC is the annual report. The report could benefit from a better use of the data collected and the performance information that could be drawn from these data. In addition, some of this information could be used more interactively to the benefit not only of institutional stakeholders but also of users. Some

of the data collected by the PUC could, for example, be used to develop choice engines of the different service providers based on the data on quality of service. Broader data on market trends and outcomes in addition to data on the quality of the regulatory framework could be also provided to the benefit of would-be investors.

There are also untapped opportunities for better informing the Board on progress in achieving goals and objectives and signal any areas for particular attention and early warning. The main tool for internal reporting is currently the monitoring of the annual action plan. The reporting on the action plan tends to be procedural and focus on inputs and some outputs. Weekly meetings with the Board, initiated by PUC departments, inform the Board on topical or complex issues to ensure a proper progress in the regulated sectors.

Recommendations

- ***Develop a performance assessment matrix that links goals and priorities to outputs and outcomes.*** This matrix should build on the wealth of data already collected and explicitly link data on inputs and quality of PUC processes (for example, inspections, checks and similar) to outputs (for example, compliance with PUC regulatory decisions) and outcomes (for example, market structure, quality of service, service provider switching). These outcomes should be used as a “watchtower” to monitor the overall performance of the markets and sectors regulated by the PUC. Particular care should be put in distinguishing between those that can be directly attributed to the PUC’s interventions and those that are influenced by wider factors (and cannot therefore be directly attributed to the PUC). The matrix could serve as the monitoring tool for the implementation of the PUC’s strategy recommended above and an assessment of the effectiveness of its regulatory interventions to reach the PUC’s objectives. The information from this performance assessment matrix could be used to develop a dashboard to regularly inform the Board on broader trends and progress in the regulated sectors, which could also inform the regular meetings of the PUC’s departments with the Board.
- ***Use performance data and information to communicate with key stakeholders.*** The information produced by the performance assessment matrix or a simplified version of it should be communicated regularly to other government (and non-government) stakeholders, especially Parliament, to which the PUC is directly accountable. This information could also be communicated more widely to the public and would-be investors.

- ***Use data to develop choice tools for consumers.*** The PUC should explore how best to use the data and information it collects to either directly develop or facilitate the development of tools that help consumers make the choices on public utility providers that best meet their needs. This can be particularly important for certain sectors like telecommunications and energy, where comparators could help users choose among different service providers based not only on costs but also on quality of service and options that meet users' needs.

Chapter 1

Methodology and approach

Measuring regulatory performance is challenging, starting with defining what to measure, dealing with confounding factors, attributing outcomes to interventions and coping with the lack of data and information. This chapter describes the methodology developed by the OECD to help regulators address these challenges through a Performance Assessment Framework for Economic Regulators (PAFER), which informs this review. The chapter first presents some of the work conducted by the OECD on measuring regulatory performance. It then describes the key features of the PAFER and presents a typology of performance indicators to measure input, process, output and outcome. It finally provides an overview of the approach and practical steps undertaken for developing this review.

Analytical framework

The analytical framework that informs this review draws on the work conducted by the OECD on measuring regulatory performance and the governance of economic regulators. OECD countries and regulators have recognised the need for measuring regulatory performance. Information on regulatory performance is necessary to better target scarce resources and improve the overall performance of regulatory policies and regulators. However, measuring regulatory performance can prove challenging. Some of these challenges include:

- *What to measure:* evaluation systems require an assessment of how inputs have influenced outputs and outcomes. In the case of regulatory policy, the inputs can focus on: i) overall programmes intended to promote a systemic improvement of regulatory quality; ii) the application of specific practices intended to improve regulation, or, iii) changes in the design of specific regulations.
- *Confounding factors:* there is a myriad of contingent issues which have an impact on the outcomes in society that regulation is intended to affect. These issues can be as simple as a change in the weather, or as complicated as the last financial crisis. Accordingly, it is difficult to establish a direct causal relationship between the adoption of better regulation practices and specific improvements to the welfare outcomes that are sought in the economy.
- *Lack of data and information:* countries tend to lack data and methodologies to identify if regulatory practices are being undertaken correctly and what impact these practices may be having on the real economy.

The *OECD Framework for Regulatory Policy Evaluation* starts addressing these challenges through an input-process-output-outcome logic, which breaks down the regulatory process into a sequence of discrete steps. The input-process-output-outcome logic is flexible and can be applied both to evaluate practices to improve regulatory policy in general, and also to evaluate regulatory policy in specific sectors, based on the identification of relevant strategic objectives. It can be tailored to economic regulators by taking into consideration the conditions that support the performance of economic regulators (Box 1.1).

Box 1.1. The input-process-output-outcome logic sequence

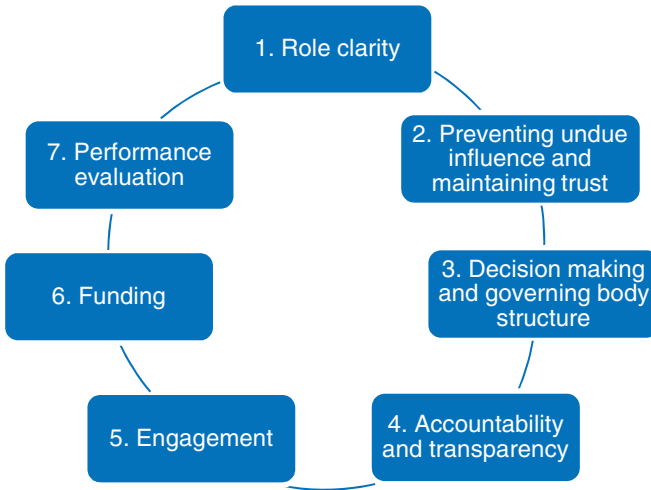
- Step I. Input: indicators include for example the budget and staff of the regulatory oversight body.
- Step II. Process: indicators assess whether formal requirements for good regulatory practices are in place. This includes requirements for objective-setting, consultation, evidence-based analysis, administrative simplification, risk assessments and aligning regulatory changes internationally.
- Step III. Output: indicators provide information on whether the good regulatory practices have actually been implemented.
- Step IV. Impact of design on outcome (also referred to as intermediate outcome): indicators assess whether good regulatory practices contributed to an improvement in the quality of regulations. It therefore attempts to make a causal link between the design of regulatory policy and outcomes.
- Step V. Strategic outcomes: indicators assess whether the desired outcomes of regulatory policy have been achieved, both in terms of regulatory quality and in terms of regulatory outcomes.

Source: OECD (2014a), *OECD Framework for Regulatory Policy Evaluation*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264214453-en>.

The *OECD Best Practice Principles for Regulatory Policy: The Governance of Regulators* (OECD, 2014b) identifies some of the conditions that support the performance of economic regulators. They recognise the importance of assessing how a regulator is directed, controlled, resourced and held to account, in order to improve the overall effectiveness of regulators and promote growth and investment, including by supporting competition. Moreover, they acknowledge the positive impact of the regulator’s own internal process—how the regulator manages resources and what processes the regulator puts in place to regulate a given sector or market—on outcomes (Figure 1.1).

The two frameworks are brought together into a Performance Assessment Framework for Economic Regulators that structures the drivers of performance along the input-process-output-outcome framework (Table 1.1).

Figure 1.1. The OECD Best Practice Principles on the Governance of Regulators



Source: Adapted from OECD (2014b), *The Governance of Regulators*, OECD Best Practice Principles for Regulatory Policy, OECD Publishing. <http://dx.doi.org/10.1787/9789264209015-en>.

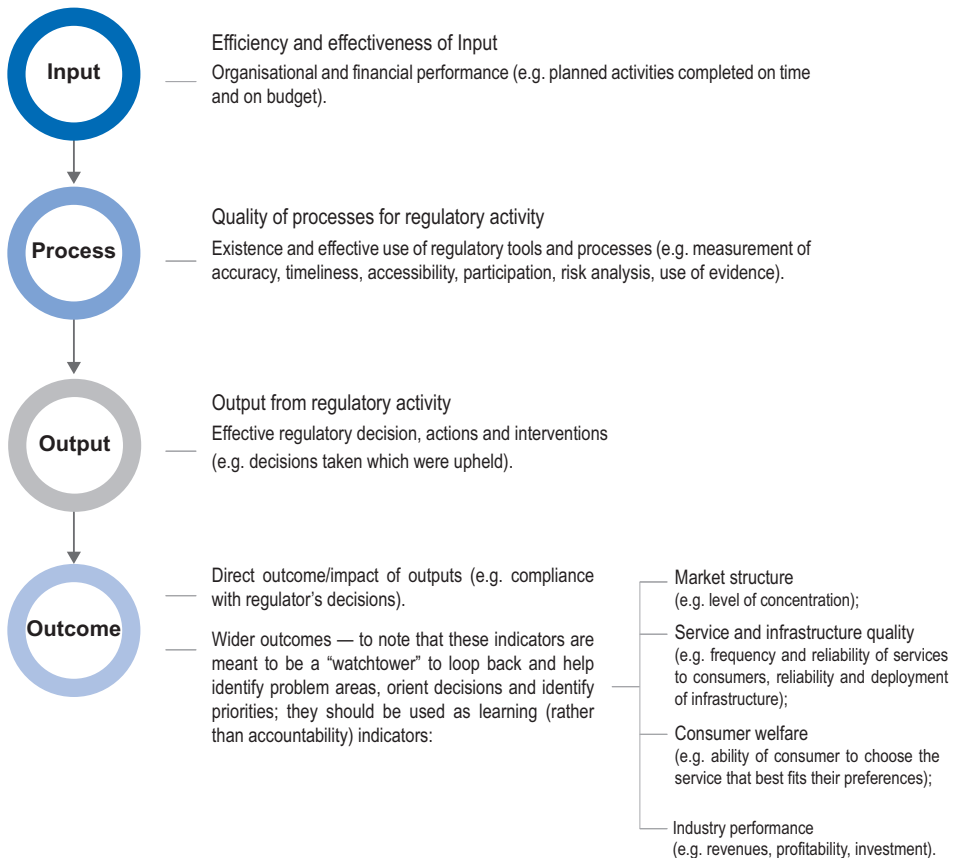
Table 1.1. Criteria for assessing regulators’ own performance framework

References	Strategic objectives	Input	Process	Output and outcome
Best Practice Principles for the Governance of Regulators	<ul style="list-style-type: none"> • Role clarity 	<ul style="list-style-type: none"> • Funding 	<ul style="list-style-type: none"> • Maintaining trust and preventing undue influence • Decision making and governing body structure • Accountability and transparency • Engagement 	<ul style="list-style-type: none"> • Performance evaluation
Institutional, organisational and monitoring drivers	<ul style="list-style-type: none"> • Objectives and targets • Functions and powers 	<ul style="list-style-type: none"> • Budgeting and financial management • Human resources management 	<ul style="list-style-type: none"> • Strategy, leadership and co-ordination • Institutional structure • Management systems and operating processes • Relations and interfaces with Government bodies, regulated entities and other key stakeholders • Regulatory management tools 	<ul style="list-style-type: none"> • Performance standards and indicators • Performance processes and reports • Feedback or outside evidence on performance

Performance indicators

For regulators, performance indicators need to fit the purpose of performance assessment, which is a systematic, analytical evaluation of the regulator’s activities, with the purpose of seeking reliability and usability of the regulator’s activities. Performance assessment is neither an audit, which judges how employees and managers complete their mission, nor a control, which puts emphasis on compliance with standards (OECD, 2004).

Figure 1.2. **Input-process-output-outcome framework for performance indicators**



Note: This framework was proposed in the initial methodology for the performance assessment framework for economic regulators (PAFER) discussed with the OECD Network of Economic Regulators (NER). It has been refined to reflect feedback from NER members and the experience of other regulators in assessing their own performance.

Source: OECD (2015), *Driving Performance at Colombia’s Communications Regulator*, Figure 3.3, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264232945-en>.

Accordingly, performance indicators need to assess the efficient and effective use of a regulator’s inputs, the quality of regulatory processes and identify outputs and some direct outcomes that can be attributed to the regulator’s interventions. Wider outcomes should serve as a “watchtower”, which provides the information the regulator can use to identify problem areas, orient decisions and identify priorities (Figure 1.2).

Approach

The analytical framework presented above informed the data collection and the analysis presented in the report. Accordingly, the assessment of Latvia’s Public Utilities Commission (PUC) performance framework focuses on:

- **Strategic objectives:** to identify the existence of a set of clearly identified objectives, targets, or goals that are aligned with the regulator’s functions and powers, which can inform the development of actionable performance indicators;
- **Input:** to determine the extent to which the regulator’s funding and staffing are aligned with the regulator’s objectives, targets or goals, and the regulator’s ability to manage financial and human resources autonomously and effectively;
- **Process:** to assess the extent to which processes and the organisational management support the regulator’s performance;
- **Output and outcome:** to identify the existence of a systematic assessment of the performance of the regulated entities, the impact of the regulator’s decisions and activities, and the extent to which these measurements are used appropriately.

Data and information informing the analysis presented in the report were collected through a questionnaire, a fact-finding mission and a peer mission to Latvia:

- **Questionnaire:** the questionnaire developed by the review’s team and completed by the PUC provided a snapshot of the *de jure* status of the performance assessment framework developed by the regulator and the background information for developing an issue note that was shared by the team with the PUC ahead of the fact-finding mission. The questionnaire tailored the PAFER methodology already applied to Colombia’s Communications Regulation Commission (OECD, 2015a) to the PUC’s features. It also built on and integrated the information that the PUC had already provided for the OECD survey on the governance of water

regulators (OECD, 2015b). Information on the practical aspects of the PUC's independence was collected through the OECD survey on the independence of regulators (OECD, 2016).

- **Fact-finding mission:** the mission was conducted by the OECD Secretariat staff on 21-23 September 2015 in Riga and was the key tool to understand how the performance assessment framework works in practice, completing the *de jure* information obtained through the questionnaire with *de facto* state of play. Building on the information provided through the questionnaires completed by the PUC, the OECD Secretariat staff developed an issue note that was shared with the PUC ahead of the mission and was fine-tuned after the mission in preparation of the peers' mission.
- **Peers' mission:** the mission took place on 9-10 February 2016 in Riga and included peer reviewers, in addition to OECD Secretariat staff. The value of the mission was to identify initial recommendations through discussions with key stakeholders. Some initial ideas for possible recommendations were shared with the PUC ahead of the mission and were revised and fine-tuned in the course of the mission and afterwards building on the discussions held with stakeholders in Riga and daily debriefings of the review's team.

During the fact-finding and peers' missions, the team met with members of the PUC Board and a number of PUC staff from across the institution, including economic analysis, legal affairs, sector departments, human resources management, external relations. The team also met with other government institutions and external stakeholders, including:

- The Competition Council;
- The Consumer Rights Protection Centre;
- The Financial and Capital Market Commission;
- The Ministry of Economics;
- The Ministry of Finance;
- The Ministry of Transport;
- Parliament (*Saeima*);
- The State Audit Office;
- *AS Latvenergo*;

- *Augstsprieguma tīkls;*
- *Lattelecom;*
- *SIA Tele 2.*

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Chapter 2

Regulatory context

This chapter describes the main features of the sectors regulated by Latvia's Public Utilities Commission. It describes the market structure and the involvement of the state in these sectors. It also provides an overview of price trends for regulated public utilities.

The regulatory agenda in all sectors (except water management and waste disposal) is largely determined by legislative developments at the EU level. Network liberalisation has been driven by EU-wide initiatives and legislation (especially in the electricity and telecommunications sectors). Nevertheless, network industries and markets remain relatively concentrated and vertically integrated, due in part to the fact that a number of networks are still state-owned. Table 2.1 presents an overview of the market structure and turnover of the sectors regulated by Latvia's Public Utilities Commission (PUC).

Table 2.1. **Main features of the sectors regulated by the PUC**

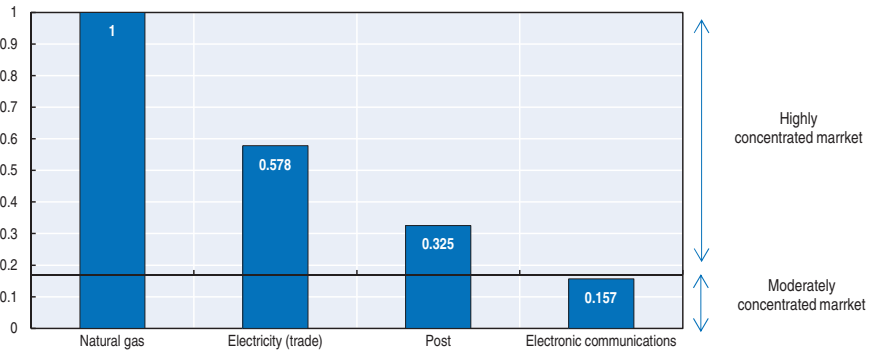
	Water	Waste Disposal	Post	Electronic Communications	Energy		
					Thermal	Electricity	Natural gas
No. of service providers/utilities	67	10 providers operating 11 landfills	101	376	47 (those not producing electricity)	Electricity transmission 1 Electricity production 191 Electricity trading: 75 registered companies, but only 16 active traders Electricity distribution: 11 licences	1
Market Structure	Provider in Riga owns 59% of market share	Provider in Riga owns 57% of market share	One Universal Service provider operating 620 post offices – Latvian Post	Incumbent operator: Lattelecom, a vertically integrated broadband, fixed access provider and IP DVBT television.	Largest 30 companies supplied more than 95% of total regulated volume of thermal energy	Share of three biggest traders was 96% Latvenergo produces 72% of total electricity production One distribution system operator has more than 100 000 customers One transmission system operator (TSO) in Latvia – "Augstsprieguma Tīkls" owned by the Ministry of Finance (with assets owned by Latvenergo)	Mono-poly: JSC "Latvijas Gāze", market opening as of Apr. 2017

Table 2.1. Main features of the sectors regulated by the PUC (*cont.*)

	Water	Waste Disposal	Post	Electronic Communications	Energy		
					Thermal	Electricity	Natural gas
2014 turnover	EUR 85 mln	EUR 13 mln	EUR 59.1 mln	EUR 529.7 mln – 34% voice, 22% broadband	EUR 285 mln		
Open to competition vs. state ownership/municipality ownership	Municipal ownership	Municipal ownership				Trade, generation open to competition, TSO - 100% state ownership Latvenergo (generation, distribution, trade) 100% state ownership	

Most sectors in Latvia show high levels of market concentration, with the only exception of the electronic communication sector (Figure 2.1). Public ownership of operators is also significant compared to OECD countries (Figure 2.2 and Table 2.2). Competition has progressively improved in the electricity sector. Since January 2015, the downstream electricity market is fully open, with no more regulated tariffs for households. Since 2014, large scale electricity generation and transmission remains in public hands but are legally unbundled. *Latvenergo*, which is owned by the Ministry of Economy and was the vertically integrated electricity provider, remains the largest electricity producer and trader, but sells all the produced electricity and buys all electricity needed through an organised market place/power exchange, the Nord Pool. The transmission system operator, *Augstsprieguma tīkls*, is owned by the Ministry of Finance and leases its assets from *Latvenergo*. The gas sector is dominated by a private monopoly, *Latvijas Gaze*, whose largest shareholder is Gazprom. Latvia has an official derogation under EU legislation (Article 49 “Emergent and isolated markets” of Directive 2009/73/EC). The gas transmission sector is expected to be unbundled and opened to competition in 2017, as provided in the energy law. In 2013, the Competition Council, Latvia’s competition authority, fined *Latvijas Gaze* for abusing dominant market position. However, the case is not yet closed (OECD, 2015).

Figure 2.1. Market concentration indexes in regulated sectors, 2013

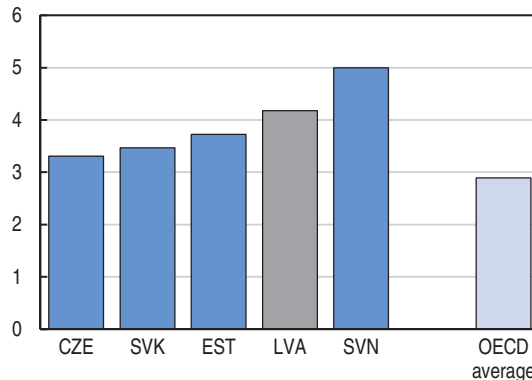


Note: The index shown in the figure, known as the Herfindahl–Hirschman Index or HHI, is a measure of the size of firms in relation to the industry and is used as an indicator of the level of competition in a given market. The index is the sum of the squares of the market shares of the firms within the industry. The index ranges from 0 to 1.0, 0 indicating a large number of small firms and 1 a monopoly.

Source: Public Utilities Commission (2015), “Public Utilities Commission 2014 Annual Report”, June, <https://www.sprk.gov.lv/uploads/doc/SPRKGadaParskats2014ENGpalapam.pdf> (accessed 4 May 2016).

Figure 2.2. Government involvement in network sectors

Score from 0 (low involvement) to 6 (high involvement)



Source: OECD (2015), *Economic Surveys: Latvia*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/888933183661>.

Table 2.2. Main Latvian state-owned enterprises

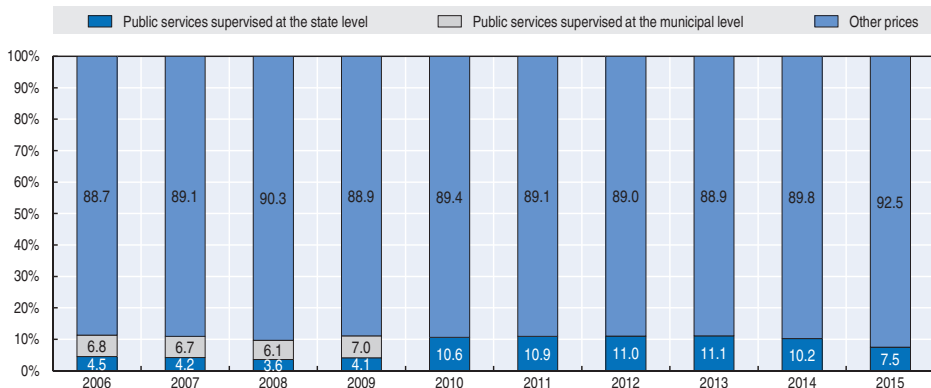
	Annual turnover (2012, in million USD)	Number of employees (2012)	Shares owned by the State (as % of total) and shareholder
Latvenergo (electricity)	1 414	4 457	100% Ministry of Economics
Latvijas dzelzceļš (railways)	629	12 289	100% Ministry of Transport
Airbaltic (airline)	336	1 302	99.8% Ministry of Transport
Latvijas Valsts Meži (forestry)	335	1234	100% Ministry of Agriculture
Lattelecom (telecoms)	277	2 113	51% JSC "Privatisation agency"

Source: Updated from OECD (2015), *OECD Economic Surveys: Latvia*, OECD Publishing; information provided by the PUC.

Price trends

The Central Statistical Bureau of Latvia is calculating changes in regulated prices alongside the Consumer Price Index (CPI), which is used to measure inflation. The basket of goods and services included in the CPI represents the goods and services consumed by a typical household in Latvia. Between 2006 and 2015, the weight of services with regulated prices in this basket has been around 10% (Figure 2.3).

Figure 2.3. Weight of regulated prices in the total Consumer Price Index basket

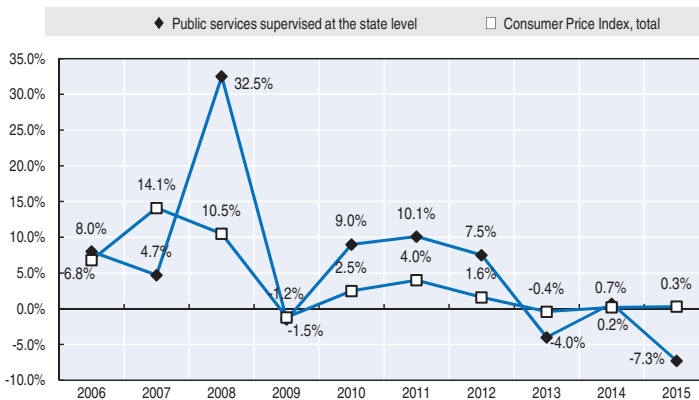


Source: Latvia Central Statistical Bureau.

Since 2012, there has been a downward trend in the prices of the sectors regulated by the PUC. The regulated prices included in the CPI include prices supervised at the state level (by the PUC) and prices supervised at the municipal level. The water supply, sewage, waste collection and heat supply sectors were regulated at the municipal level until November 2009. After 2009 the regulation of these services was transferred to the PUC. Services like electricity supply, natural gas, fixed line telephone retail prices, postal services and railway services are regulated at state level for the entire period. The electricity supply prices are not regulated since 2015. Figure 2.4 and Table 2.3 shows price changes in the regulated sectors between 2006 and 2015.

Figure 2.4. Regulated prices and CPI changes

December vs December of previous year



Source: Latvia Central Statistical Bureau and PUC.

Table 2.3. Price change in regulated services (including services regulated by municipal regulators)

Public services	Price change (December vs December of previous year)									
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Public services supervised at the state level (by the Public Utilities Commission)	8.0%	4.7%	32.5%	-1.5%	9.0%	10.1%	7.5%	-4%	0.7%	-7.3%
Public services supervised at the municipal level (by municipal regulators)	14.6%	25.3%	39.1%	-6.6%						
Consumer Price Index: total	6.8%	14.1%	10.5%	-1.2%	2.5%	4.0%	1.6%	-0.4%	0.2%	0.3%

Source: Latvia Central Statistical Bureau and PUC.

References

- OECD (2015), *OECD Economic Surveys: Latvia 2015*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264228467-en>.
- Public Utilities Commission (2015), “Public Utilities Commission 2014 Annual Report”, June, <https://www.sprk.gov.lv/uploads/doc/SPRKGadaParskats2014ENGpalapam.pdf> (accessed 4 May 2016).

Chapter 3

From objectives to outcomes at Latvia's Public Utilities Commission

The Performance Assessment Framework for Economic Regulators (PAFER) was developed by the OECD to help regulators assess their own performance. The PAFER structures the drivers of performance along an input-process-output-outcome framework. This chapter describes some of these key performance drivers for Latvia's Public Utilities Commission and reviews the existing features, the opportunities and challenges faced by the PUC in developing an effective performance assessment framework.

The Public Utilities Commission of Latvia (PUC) is a multi-sector regulator established in 2001, with regulatory responsibilities for the following sectors:

- electronic communications;
- energy;
- postal services;
- waste disposal; and
- water management.

Until 2015, the PUC exercised some regulatory functions related to access to rail infrastructure; these functions have been transferred to the State Railway Administration in 2016.

The establishment of a multi-sector regulator was part of a series of structural reforms initiated by the government in the area of privatisation, regulation and competition. The choice of a multi-sector model for the regulation of public utilities built in part on the advice of the World Bank, recommending that a single regulator could help avoid potential conflicts of interests and ensure greater transparency. The size of the country and the need to ensure sufficient knowledge and capacity weighted also in the choice of a multi-sector regulator (Box 3.1).

Box 3.1. The establishment of a multi-sector regulator in Latvia

The sector regulators established in the early nineties in Latvia were relatively ineffective. In 2000, after analysing the experience of state regulators in the United States, the government adopted the Law on Regulators of Public Utilities to create a multi-sector regulator (the first in Europe alongside Luxembourg at that time). In parallel, the government also established municipal regulators. A 2004 assessment of the implementation of the regulatory reforms introduced in 2000 showed that municipal regulators were relatively ineffective in guaranteeing the efficient functioning of public utilities, due in part to the lack of institutional and financial independence. Overcoming significant resistance from municipalities, in 2009, the government transferred the responsibilities of the municipal regulators to the PUC, which took over regulatory responsibilities such as tariff and licencing for district heating, water supply, sewage and waste disposal. The government secured municipalities' support for this reform by creating regional units of the PUC.

Source: Information provided by the PUC (August 2015).

Role and objectives of the regulator

The Law on Regulators of Public Utilities, adopted in 2000, is the primary legislation that set up the PUC and defines the functions and powers of the regulator, its status *vis-à-vis* other public institutions, the structure, appointment and functioning of the decision-making body. A regulation of the Cabinet of Ministers, adopted in 2009, further refined the scope of the action of the regulator (with a special attention for the responsibilities of the PUC versus those of municipalities). Primary legislation further refined the specific functions and role of the regulator in electronic communications, energy, postal services and water (Box 3.2).

Box 3.2. Legislation on the regulation of public utilities in Latvia

- Law on Regulators of Public Utilities, adopted in 2000 (last amended in 2011), www.vvc.gov.lv/export/sites/default/docs/lrta/likumi/on_regulators_of_public_utilities.doc
- Cabinet Regulation No 1227 adopted in 2009 “Regulations Regarding Types of regulated Public Utilities” (last amended in 2015), www.vvc.gov.lv/advantagecms/lv/meklet/meklet_dokumentus.html;jsessionid=096fec6074c1be2d415c0145689f2227?query=1227&submit=mekl%204%93t&resultsperpage=10
- Electronic Communications Law, adopted in 2004 (last amended in 2014), www.vvc.gov.lv/export/sites/default/docs/lrta/likumi/electronic_communications_law.doc
- Electricity Market Law, adopted in 2005 (last amended in 2014), www.vvc.gov.lv/export/sites/default/docs/lrta/likumi/electricity_market_law.doc
- Energy Law, adopted in 1998 (last amended in 2014), www.vvc.gov.lv/export/sites/default/docs/lrta/likumi/energy_law.doc
- Postal Law, adopted in 2009 (last amended in 2014), www.vvc.gov.lv/export/sites/default/docs/lrta/likumi/postal_law.doc
- The Law on Water Services, adopted in 2015 (in force since 1 January 2016), <http://likumi.lv/doc.php?id=275062>

Strategy

The PUC sets its broad strategic objectives through a two-year public strategy known as the Strategic Activities. The first strategy was launched in 2002. The current strategy, covering the period 2014-16, identifies the four main strategic directions for the regulator:

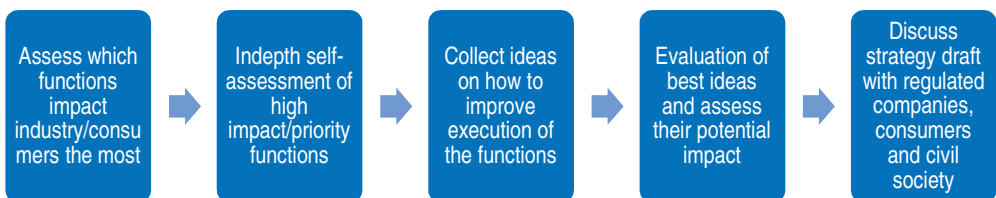
1. Provision of regulation;
2. Monitoring of companies;
3. Quality control; and
4. Participation in international organisations.¹

The strategy also includes sector-level objectives, internal processes and organisational development.

Since 2002, the Strategic Activities are implemented through an annual Action Plan which translates the strategic directions into an actual timeframe and monitors progress. The Action Plan is usually prepared in December and launched in January. It is reviewed quarterly by the Board of the PUC.

The PUC is also in the process of developing a more forward looking medium-term strategy (2016-18) to explore the use of innovative regulatory tools and methods, focusing on risk-based strategic planning that assess all 145 functions in the sectors regulated by the PUC. Figure 3.1 outlines the general approach taken to achieve that purpose. At the time of report, the adoption of the medium-term strategy was postponed until the new PUC board came into effect in July 2016.

Figure 3.1. PUC forward-looking planning framework under development



Through this exercise, the PUC plans to incorporate scenario-based planning to come up with a set of strategies that effectively positions the PUC within those scenarios identified. Using the results from this scenario-planning exercise, the PUC would then develop results-oriented goals and related performance metrics, both for the sector that it regulates as well as internally for the organisation to align priorities, resources, and accountability for results.

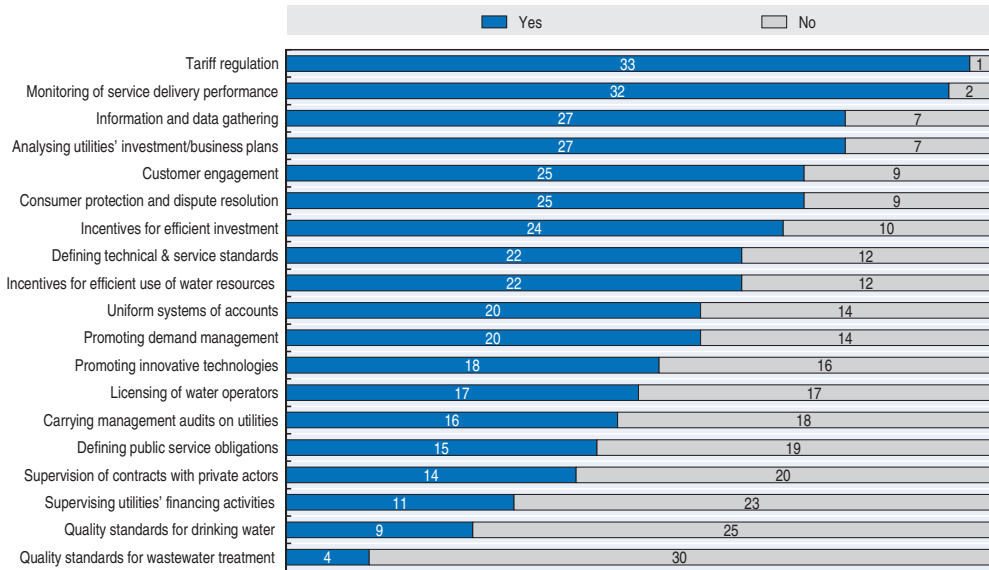
Functions and powers

The Law on the Regulators of Public Utilities assigns the following goals and functions to the PUC:

- Protect the **interests of users** and promote the **development of providers** of public utilities;
- Determine the **methodology for calculation of tariffs**;
- **Determine the tariffs if special laws concerning the sectors do not provide for another procedure** for determining the tariffs;
- **License the provision of public utilities or registration of service providers**;
- **Examine disputes** in the cases and in accordance with the procedure determined by this law;
- **Promote competition** in the regulated sectors and **supervise compliance** of the public utilities with the conditions of the licence, determined quality and environmental protection requirements, technical specifications, standards, as well as contract provisions;
- **At the request of the ministries responsible for the regulated sectors, provide information** to them **and make recommendations** to such ministries on issues regarding the regulation of public utilities;
- **Inform the public of its activities and also of the activities of providers of public utilities** in the provision of public utilities;
- Perform other functions determined by special laws of a sector.

Among these functions, the supervision of compliance of the public utilities with contract provisions is less common among 34 water regulators (including the PUC) that were surveyed by the OECD (Figure 3.2).

Figure 3.2. Core regulatory functions carried out by water regulators



OECD (2015b), *The Governance of Water Regulators*, OECD Studies on Water, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264231092-en>.

Tariffs

The PUC's main functions include developing methodologies for calculating tariffs, as well as approving and enforcing the tariffs. Tariffs must cover economically substantiated costs of public services and ensure their profitability unless special sectoral laws specify other tariff setting principles. A regulated company must also clearly and unambiguously reflect the cost of each regulated service, including only those assets and activities which are related to the regulated services. Tariffs cover the following areas:

- *Electronic communications*: price caps for undertakings with significant market power;
- *Electricity*: distribution and transmission systems;
- *Natural gas*: transmission, storage and distribution of gas supply services as well as retail prices;
- *Postal services*: universal service;
- *Water management*: water production and supply, wastewater collection and treatment;

- *Waste disposal*: municipal waste disposal in landfills.

Companies submit substantiated tariff proposals, which the PUC approves or rejects after performing an analysis and assessment of costs and profits. The PUC does not have amendment powers regarding tariff proposals and the burden of proof is on companies. The PUC can propose a tariff review and request the provider of public services to submit draft tariffs if there is a change in some of the factors like profitability that influence tariffs.

According to the law, PUC has up to 90 days to evaluate a tariff proposal and another 30 days to make a decision. If additional information is requested from the service provider, the evaluation time is extended to allow the service provider to prepare the requested information. In some cases it may take up to a year to set a tariff. Tariffs are reviewed on ad-hoc basis.

Tariff methodology differs sector by sector taking into account the circumstances in each sector and the requirements of sector-specific laws. In most cases the tariff methodology is the cost-plus approach with regulated rate of return, meaning that the PUC adds an acceptable profit to the expected costs of the regulated operator. Methodology includes some incentive regulation elements, like in district heating – allowing for higher profitability for providers with higher efficiency. Incentive elements are not widely used due to fact that many of the companies, especially municipality-owned enterprises, do not have economic or profit targets.

Inspection and quality control

The PUC has the power to inspect service providers to supervise service quality. The PUC defines “service obligations” and monitors the implementation of these standards and obligations.

In the electronic communications sector, the PUC supervises service quality based on “Regulations Regarding Quality Requirements of Electronic Communications Services, Submission and Publishing of Quality Reports” and “Quality Measurement Methodology of Electronic Communications Services” issued by PUC. The PUC provides Quality of Service measurements on regular basis for the Voice Telephony services in fixed and mobile networks and for Mobile Internet services. Similarly for the postal sector, the PUC is responsible for both defining the service requirements and the monitoring of compliance with the quality requirements. However, for the water sector, it is the Ministry that defines the standards for the quality of water.

Inspections can be conducted at the request of a stakeholder, in response to a problem and at the discretion of the regulator. In practice, site inspections are not conducted frequently. The PUC can issue warning or fines and decisions of the PUC are legally binding with no suspensory effect. The PUC can also suspend the licences of public utilities for a period of up to three years if repeated violations are committed.² More than 116 companies were administratively fined in 2013 (PUC, 2014).

To ensure that companies submit information and data to the PUC, the PUC has the power to impose administrative penalties of up to EUR 14 000 for non-compliance. This would affect smaller operators more than the larger ones. Nevertheless, PUC has not met with any great difficulty in accessing/obtaining information from large companies.

Evolving functions

Because of regulatory developments at the EU level, the functions of the PUC evolve relatively frequently. In the electricity sector, market liberalisation driven by EU legislation has led to the shift of some of PUC's functions from retail price regulation to monitoring the wholesale energy market and defining obligations for transmission and distribution system operators. At the same time, the PUC still sets tariffs for third party access for transmission and distribution system operators. PUC's functions have also been extended with regard to implementation of the 3rd Energy Package (TSO unbundling, certification, supervision of TSO and system owner), REMIT (wholesale market monitoring, investigation of potential REMIT breaches), Infrastructure Package (evaluation of PCIs, CBCA decisions) and currently, the EU Network Codes in the electricity and gas sector. From April 2017, natural gas transmission system and distribution system operators will be separate and the PUC's control functions will also be reviewed.

Co-ordination with other government (and EU) stakeholders

Other stakeholders are involved in the management of public utilities, including ministries, other regulatory bodies and sub-national governments. As the PUC has also responsibilities for promoting competition (see above), the co-ordination and co-operation with the Competition Council, Latvia's competition authority, is particularly important. This co-operation is facilitated by a clear definition of the powers and functions of the PUC and the Competition Council in the relevant legislation – the Law on Regulators of Public Utilities and the Competition Law – which in turn avoids “grey zones” and overlapping between the two institutions.

Everyday co-ordination and co-operation is facilitated through co-operation agreements with the Competition Council and other government institutions. These agreements include:

- Inter-agency agreement with the Information Centre of the Ministry of Interior of 15 August 2008, on the use of the electronic information system “Persons which committed administrative offences”;
- Co-operation agreement with the Consumer Rights Protection Centre of 3 November 2008, on exchange of information and provision of opinions;
- Co-operation agreement with the Competition Council of 4 April 2008, on the exchange of information, provision of opinions and consultations;
- Co-operation agreement with the Register of Companies of 20 January 2015, on receipt of e-services;
- Co-operation agreement with the State Revenue Service of 28 September 2015, on receipt of e-services;
- Co-operation agreement with the State Regional Development Agency of 1 June 2015, on the co-operation within the framework of joint state information systems.

Formal agreements and regular exchange of information happens at different stages of the work of the PUC (Table 3.1). These formal agreements help define and manage the respective responsibilities and areas of work.

In practice, these formal agreements provide a foundation for more frequent and effective exchanges and working relationships. Officials of the different institutions have established good channels of informal and continuous exchanges of information. In addition, staff from key ministries and the State Secretary and meet quarterly with the PUC Board. The challenge is to ensure that these informal channels of communication remain open and effective when officials change. The PUC board and professional staff also regularly meet with the heads and professional staff from the Competition Council and the Consumer Rights Protection Centre, which is responsible for consumer protection, to exchange information. More concretely, this has led to close co-operation with key agencies. For example, the opinion of the Competition Council was actively sought on PUC’s draft documents about markets in electronic communication sector to implement the EU Directive 2002/21/CE.

Table 3.1. **Co-ordination with stakeholders**

Type of stakeholder	Key agencies	Stage	Role	Instrument
National Policy makers	Ministry of Economics Ministry of Finance Ministry of Transport Ministry of Justice Ministry of Environmental Protection and Regional Development Ministry of Agriculture	Formulation of government sector policy and legislation	PUC advice on key policy issues where it has competence in	Participation in co-ordination meetings and parliament committee meetings organised by the government
National Regulators	Competition Council Consumer Rights Protection Centre Register of Enterprises Information Centre of the Ministry of Interior State Regional Development Agency Financial and Capital Market Commission (agreement forthcoming)	Implementation/ market oversight	Ensure that there is no negative interference within competences of both institutions and to achieve better regulatory synergy Avoid overlapping and unnecessary burden/compliance costs?	Co-ordination agreements: exchange of information and provision of opinions and consultations
EU-level Policy makers	European Commission and other EU national authorities	Elaboration and co-ordination of national positions on specific issues	Contribute to Latvia's position on the negotiation of relevant EU legislation (both directives and implementing acts)	Participation in both the official co-ordination process (i.e. EU working groups) and process (i.e. comitology)
EU-level platforms	CEER ACER BEREC	Implementation/ market oversight		

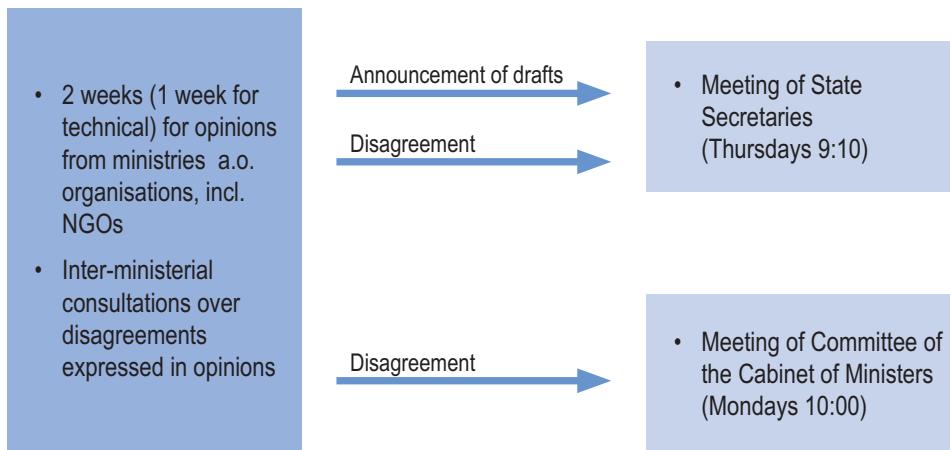
Participation in the legislative process

There are two main sources of legislation in Latvia: i) regulations adopted by the Cabinet of Ministers; ii) laws adopted by parliament, either in the form of a new law or as an amendment to an existing law. The Cabinet of Ministers is primarily responsible for the formulation of policies and draft laws to be sent to Parliament. Draft development planning documents, informative statements and draft legal acts are endorsed by all state administration institutions.

The Regulation of the Cabinet of Ministers No. 300 “Rules of Procedure of the Cabinet of Ministers” of 7 April 2009 requires that draft legal acts related to the regulation of public services prepared by institutions other

than the PUC require an opinion of the PUC. If there are grounded objections to the draft legal act, in order to reach an agreement on those objections, the ministry in charge convenes a joint inter-institutional meeting or organises the endorsement through electronic means. If during the inter-institutional meeting or electronic endorsement an agreement is not reached, the ministry in charge submits the draft for its consideration in the State Secretaries' or Committee of Cabinet of Ministers' meeting (Figure 3.3).

Figure 3.3. **Procedures for the submission of draft legal acts to the Cabinet of Ministers**



Source: Information provided by the Latvian authorities.

The PUC is actively involved in issuing opinions on draft laws and regulations. For example, in 2013, the PUC issued a recommendation or opinion on draft legislation approximately once every two weeks, in addition to issuing 37 legal acts for which it was directly responsible (PUC, 2014). Providing opinions on draft legislation is viewed by the PUC as an important mission to improve the functioning of the supervised markets and simplify the PUC's task of implementing the legislation once it has been approved. (Table 3.2). However, this activity can also require a significant commitment in terms of staff time and resources.

Table 3.2. Overview of PUC's legal activities in the development of the normative environment, 2013

	Development of draft laws		Development of draft Cabinet regulations		Development and adoption of external normative acts
	Participation	Opinions	Participation	Opinions	
General, concerning several sectors	9	14	1	1	
Waste disposal	1	1			1
Railway	1				2
Electronic communications	2	1		5	4
Energy	9	4		13	14
Post	721	1		5	5
Water management	1	2			1
Total	24	23	1	27	37

Source: Public Utilities Commission (2015), "Public Utilities Commission 2014 Annual Report", June, <https://www.sprk.gov.lv/uploads/doc/SPRKGadaParskats2014ENGpalapam.pdf> (accessed 4 May 2016).

PUC opinions are usually taken into consideration and ministries have to motivate their eventual disagreement. All opinions are included in a position document with comparative tables. If opinions of the PUC are not reflected in the draft laws submitted to Parliament, the PUC can table them during the parliamentary discussion, through the relevant Committee. This was the case for a PUC opinion related to the postal sector. A draft legislative proposal provided that only service providers other than Latvia Post, the universal service provider, contributed to a fund created to cover the eventual losses of the universal service provider. The PUC proposed that also Latvia Post contribute to the fund. The Ministry of Transport, which is also the main shareholder of Latvia Post, opposed the PUC's proposal, which was not included in the draft approved by the Cabinet of Ministers. The PUC's opinion was nevertheless reflected in an amendment to the law approved by the Parliament.

At the EU level, the PUC contributes to Latvia's position on the negotiation of relevant EU legislation (both directives and implementing acts) by taking part in the official co-ordination process for the elaboration and co-ordination of national positions, as well as in informal consultations.

The PUC also participates in EU advisory bodies for the consultation on EU implementing legislation through the EU so-called “comitology” and EU regulators’ bodies (e.g. CEER, ACER, BEREC). These activities might also require a significant resource commitment and be demanding especially for a multi-sector regulator that needs to participate in different sector bodies.

Examples of issues on which the PUC has provided an opinion include:

- Integrity and transparency of the electricity wholesale market, responsibility of market participants for failure to comply with EU Regulation 1227/2011 (wholesale market integrity and electricity generation) requirements providing efficient, proportionate and dissuasive sanctions, limiting the support mechanism for electricity generators, and ensuring the independence of the natural gas distribution system operator (at the initiative of the Ministry of Economy);
- Next Generation Access (NGA) networks, restriction of fraud using numbering, obligations for electronic communications companies with significant market power, co-payments of the Universal Postal Service provider to compensate net costs of the Universal Service obligations, expansion of regulatory functions in the railway sector (at the initiative of the Ministry of Transport);
- Initiation, review and appeal of administrative violations cases and other procedural issues (at the initiative of the Ministry of Justice);
- The minimum regulatory threshold for water management services, substitution of licensing of water management service providers with registration, issues related to costs of closure, re-cultivation of landfill sites and monitoring of a closed landfill in the tariff of a municipal waste disposal service (at the initiative of the Ministry of Environmental Protection and Regional Development).

Independence

Relation with the executive

The PUC is not subordinated to the State or local government institutions. It independently performs the functions delegated to it by law and, within the scope of its competence, takes decisions independently and issues administrative acts binding upon specific providers and users of public utilities. There are no cases when the government instructs or guides the PUC on specific regulatory functions or the decision process. The multi-sector model also contributes to strengthen independence as no sector

dominates the agenda and there is no financial dependence on any specific sector or a large public utility provider.

During the financial crisis, there were several attempts to undermine the PUC status legally, functionally and financially. The PUC original legal status — a derived public institution “under the supervision of the Ministry of Economy” — became an issue. Accordingly, the PUC advocated for strengthening its legal independence, to better safeguard its functional and financial independence. The Parliament’s Economic Commission recognised that there is a need for a more independent legal status equal at least to the regulator of the financial markets, the Financial and Capital Market Commission, which is an autonomous public institution. Despite the opposition of the Ministry of Economy, in 2011, Parliament amended the PUC’s legal status, which is currently an autonomous public institution (Box 3.3).

Box 3.3. The PUC’s legal status

- The Regulator shall be institutionally and functionally independent, full-fledged, autonomous body governed by public law and unassisted in the implementation of its budget approved by law.
- The Regulator is a derived legal person governed by public law. The Regulator has its own property, an independent balance sheet and an account with the Treasury.

Source: Section 7 of the Law on Regulators of Public Utilities,
<http://likumi.lv/doc.php?id=199830&from=off>.

Role clarity and sequencing of regulatory decisions

The mandate for sector ministries and for the PUC are clearly defined and do not overlap. However, the PUC has a broad remit that spans from the promotion of public utilities to the supervision of the compliance of public utilities with contract provisions. This broad remit entails a wide range of areas and issues where both a sector ministry and the PUC have to act, which in turn require a good sequencing of decisions. Sector ministries need to be the first to determine the requirements within which the PUC can develop its by-laws. If the sector ministry is not observing the deadline set by the law for issuing the corresponding by-law, then PUC finds it problematic to prepare its by-laws by the due date. For example, in a few occasions, the Ministry of Transport delayed issuing the by-law on compensation of universal service costs and currently, the Ministry of Economy has not issued the by-law on supply and use of natural gas. In such

instances, the PUC can make the entry into force of its own by-laws conditional on the adoption of the by-law by the ministry (this has been the case for the by-law on supply and use of natural gas).

Input

Financial resources

Sources of funding

Appropriate funding of the regulator is essential to determine the extent to which the regulator can carry out its mandate and act independently. The PUC is funded through fees from service providers. The fee is set by a regulation of the Cabinet of Ministers upon proposal of the Ministry of Economy and the Ministry of Finance and cannot exceed 0.2% of the public utilities provider's net turnover in the regulated public utilities sector in the previous financial year as provided in the Law on Regulators of Public Utilities (Section 31). If the fee paid for the regulation of public utilities in the relevant year exceeds the costs met by the PUC, the extra funds are set aside to pay for the activities of the following year. The fee for the following year is reduced to take into account this "overpayment". The amount of the regulatory fee has no impact on the state budget and there is no legal obligation to regularly review the fee.

In the midst of the financial crisis in 2008, the fee was reduced from 0.2% to 0.17%. The fee has not been increased since then. In 2015, the regulatory fee generated an operating budget of EUR 5 100 192, which is relatively consistent with the 2014 budget (EUR 5 060 302).

While the PUC has largely been able to perform its functions with the fees collected so far, it faces greater constraints going forward due to:

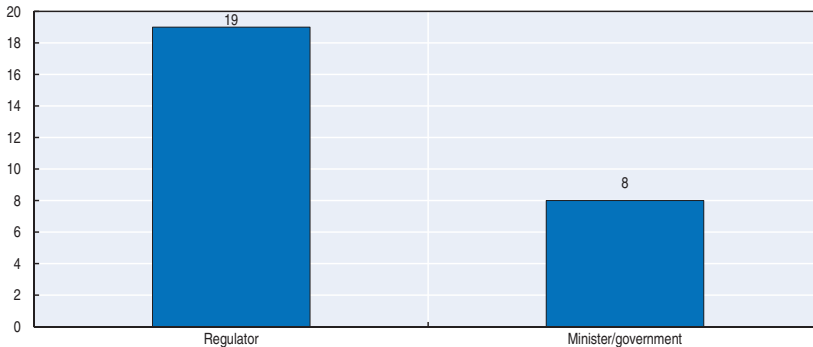
- A reduction of approximately EUR 395 000 with the transfer of regulation of rail transport to another institution;
- The overall decrease of turnover of regulated utilities;
- A large scope of new regulatory tasks and functions (under EU legislation).

The PUC submitted a letter to the Ministry of Finance in July 2015 requesting to re-establish the fee to 0.2% as of January 2016. The PUC's proposal was forwarded to the Ministry of Economics by the Ministry of Finance on the grounds that the issue is not within its competence and the Ministry of Economy has yet to forward the draft regulation to the Cabinet of Ministers.

This proposal would need to receive opinions from the following agencies: Ministry of Justice, Ministry of Finance, Ministry of Transport, Ministry of Environmental Protection and Regional Development, State Chancellery, Employer's Confederation of Latvia and the PUC. In addition, opinions will likely be sought from the Latvian Chamber of Commerce and Industry and the Latvian Information and Communications Technology Association.

The way in which the fee is set raises some concerns that would need to be addressed, especially in the Latvian context where state-owned enterprises are important actors in the markets overseen by the regulator. As a number of ministries are shareholders of the public utilities regulated by the PUC, the exclusive role of the Cabinet of Ministers in setting the fee creates a potential conflict of interest and can become an avenue for exercising pressures on the regulator and create tensions between the regulator and the executive. While it is not uncommon for either the cabinet or ministries to set the regulatory fee, most regulators participating in the OECD Independence of Economic Regulators Survey that are financed through a fee (rather than from general revenues) have some degree of autonomy in setting the regulatory fee (Figure 3.4).

Figure 3.4. **Who sets the regular fee to industry?**



Notes: The survey includes 48 regulators from 26 OECD members and partners. Of these 48 regulators, 36 are funded in total or in part through regulatory fees. No information is available for 9 regulators.

Source: OECD (2016), *Being an Independent Regulator*, The Governance of Regulators, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264255401-en>.

Management of financial resources

The PUC is autonomous in implementing the allocated budget, but cannot request additional funding to cover unanticipated costs.

The PUC submits its budget proposal directly to the Ministry of Finance, which then submits the overall state budget proposal to the Cabinet of Ministers. The PUC budget has to be approved by Parliament in accordance with the Law on the Budget as a part of the state budget, even though it does not affect the state budget as it is financed via fees collected from the regulated sectors. In addition to the overall budget, the Parliament also approves the size of 4 budgetary lines: remuneration, services, membership in international organisations and capital expenditure. Shifting of funds from one budget position to another is possible. The PUC simply needs to write a letter to the Minister of Finance and wait for the decision of the Minister, which is usually granted after a month. The PUC can use its budget according to the law on the budget for the respective year and according to the monthly financing plans approved by the Ministry of Finance and State Treasury.

Prior to preparing the PUC's annual budget proposal, each PUC department and division has to submit a budget requests. These requirements are based on the activities planned in the next budgetary period and included in the Action Plan.

The final budget is not allocated depending on regulated services. This principle ensures a more efficient administration of PUC accounting and, more importantly, its distance from regulated industries. Sector-specific budget allocation is only taken into consideration in a few instances, such as to pay for membership in international organisations, the provision of sector-specific training, and to buy specific equipment for quality control of regulated utilities in electronic communications or energy sector based on requests from PUC departments and divisions.

Human resources

Staff profile and recruitment

The PUC workforce is mostly comprised of professional staff and has been relatively stable between 2013 and 2015. It had 132 staff members in 2015 (approximately 7% more than in 2014), with professional staff accounting for almost 80%.

Table 3.3. **The PUC's workforce (2013-15)**

Year	Number of supporting staff	Number of professional staff	Total workforce
2016 (as of 1st May)	12	91 (including 23 in electronic communications and postal department, 23 in energy department, 10 in municipal department)	113 (including 5 commissioners and 5 advisors)
2016 (until 29 of April)	17	104 (including 24 in electronic communications and postal department, 23 in energy department, 11 in municipal and railway department)	133 (including 5 commissioners and 7 advisors)
2015	16	104 (including 24 in electronic communications and postal department, 23 in energy department, 11 in municipal and railway department)	132 (including 5 commissioners and 8 advisors)
2014	14	97 (including 23 in electronic communications and postal department, 21 in energy department, 10 in municipal and railway department)	123 (including 5 commissioners and 7 advisors)
2013	15	97 (including 25 in electronic communications and postal department, 21 in energy department, 10 in municipal and railway department)	123 (including 5 commissioners and 6 advisors)
2012	15	93 (including 22 in electronic communications and postal department, 21 in energy department, 10 in municipal and railway department)	119 (including 5 commissioners and 6 advisors)
2011	10	93 (including 22 in electronic communications and postal department, 21 in energy department, 10 in municipal and railway department)	114 (including 5 commissioners and 6 advisors)
2010	10	91 (including 22 in electronic communications and postal department, 21 in energy department, 8 in municipal and railway department)	110 (including 5 commissioners and 4 advisors)
2009	10	84 (including 22 in electronic communications and postal department, 21 in energy department, 8 in municipal and railway department)	104 (including 5 commissioners and 5 advisors)
2008	11	66 (including 23 in electronic communications and postal department, 11 in energy department, 3 in municipal and railway department)	90 (including 5 commissioners and 8 advisors)

The majority of PUC permanent staff is recruited through open competition. There are no restrictions on pre- or post-employment of professional staff (with the exception of requirements not to disclose any confidential information). Almost half of professional staff is comprised of technical engineers and sector experts (Table 3.4).

Table 3.4. **Composition of the PUC professional workforce by department**

Job family/profession	Share of total professional staff (Not including supporting staff)
Accounting	4%
Communication	2%
Economics	4%
Inspection	4%
Legal	16%
Managerial	14%
Modelling/forecasting	0%
Statistician	1%
Strategy	1%
Technical (i.e. engineers)	17%
Other (sector experts)	31%
Other (international relations)	2%
Other (human resources)	2%
Other (internal audit)	2%

Notes: Share of professional staff is based on staff assigned to different departments. The economics profession reflects the staff in the economic analysis department. Economists who are employed in sector departments are included under sector experts.

Most of the PUC staff are hired under permanent open-ended contracts with the exception of the advisors who are appointed directly by the commissioners and are usually on fixed-term contracts. There are no restrictions on headcount. While PUC staff are not civil servants, they follow all the requirements of public institutions, including on health coverage and mission per diem. PUC staff come from both public and private sectors. In the electronic communications and postal department, the majority of employees are hired from universities. Most former employees have moved on to the private sector or state capital companies; two currently work for the BEREC.

Remuneration

The PUC follows a unified wage system for public institutions. In the case of the PUC, salaries cannot exceed the monthly average salary in the country multiplied by a coefficient of 4.05. There is no mandated cap on different grades and positions within the PUC, it is defined in Law on Regulators of Public Utilities. Rather, the cap limits the top salaries, specifically the salary of the Chairman, with the other salaries set below this limit according to a salary scale decided by the PUC. In 2016, monthly

salaries before taxes ranged from EUR 924 for an entry level professional to EUR 3 098 for the Chair of the PUC Board (Table 3.5). Exceptions to the unified wage system exist. For example, for the Financial and Market Capital Commission, Latvia's financial regulator, the top salary is determined by a coefficient times the monthly average salary in the regulated sector, i.e. the financial industry, rather than the average salary in the country. These exceptions do not apply to the PUC.

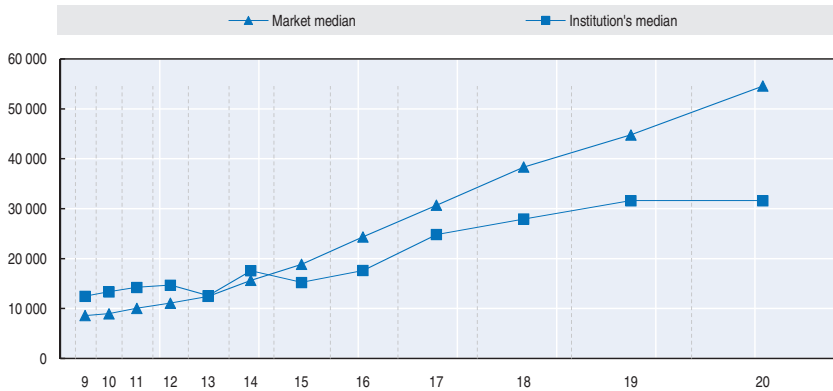
Table 3.5. **PUC professional staff salaries (before taxes), before 1 May 2016**

Position	Grade	Number of positions	Average monthly salary (EUR)
Chairman		1	3 098
Commissioner		5	3 022
Adviser		5	1 920
Executive Director	IV	1	2 690
Department Director	IV	7	2 531
Department Deputy Director	IV	9	2 219
Head of Independent Division	IV	7	1 946
Division Head	III	15	1 753
Chief Specialist	III	12	1 542
Senior Lawyer	II	13	1 416
Senior Expert	II	42	1 215
Inspector	II	3	1 149
Expert	I	7	924

Source: Information provided by the PUC.

Every 2 years, the PUC hires an external consultant to explore the remuneration trends in similar institutions and the regulated sectors. Based on this analysis, the salary scale is updated, within the allowed cap. The most recent analysis commissioned by the PUC shows that salaries for junior positions are above the median salary for the regulated sectors. However, as the level of seniority increases, salaries increases significantly slower than the trend in the regulated sectors, reaching a 20-40% gap for top positions (Figure 3.5).

Figure 3.5. PUC salaries compared to the median salary in all regulated markets in Latvia, 2015

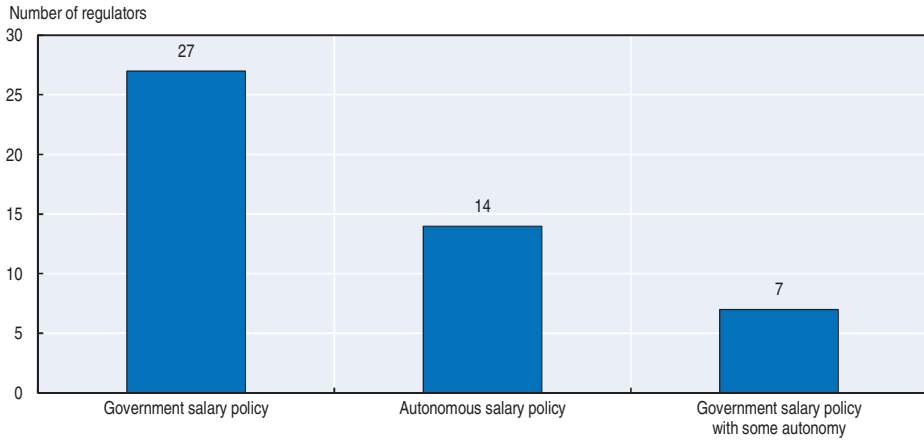


Notes: The line with the triangles represents the median salary in Latvia at each professional grade while the line with the squares represents the median salary within the PUC at comparable grades.

Source: Graph provided by the PUC.

Being subject to a government-wide/civil service salary system or rules is not uncommon for regulators. The large majority of the 48 regulators that participated in the 2015 Independence of Economic Regulators Survey follow the government remuneration policy in full or with some degree of autonomy (Figure 3.6). This approach would add a certain degree of transparency and coherence to the salary policy of the regulator and place the regulator in the wide public service family, signalling some sort of difference with the regulated industry.

However, the possible effects of the government remuneration policy for the regulators, who often compete for talent with highly paid industry professionals, need to be taken into consideration. In the case of the PUC, the unified wage system leads to a certain compression of the salary scale, with a gap between senior positions in the PUC and comparable positions in the regulated sectors. At the same time, this gap does not appear to be currently a problem. Turnover at the PUC is low, at 7% in 2014. It might become a problem in the future with the evolution of the PUC functions and the need to attract new talent for senior management positions. It could also create a disincentive for staff to seek promotions as the increase in responsibility comes with a relatively small increase in salary.

Figure 3.6. **Regulators' remuneration policies**

Source: OECD (2016), *Being an Independent Regulator, The Governance of Regulators*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264255401-en>.

Managing human resources

PUC staff are evaluated once a year, using a specific evaluation form. The system for evaluating the performance of an employee encompasses the evaluation of qualifications and competences, assessing achievement of individual goals and development tasks, and performance of duties. The system is used also for determining the needs for further trainings (expert, language, IT etc.), determining bonuses, improving working environment, career development and other. Bonuses are regulated and defined in State and local government officials and workers' compensation law. Bonuses percentages are set based on the performance evaluation of the employee's against his/her define level.

For the staff performance assessment, individual targets are derived from the targets and objectives identified in the action plan. Staff performance is evaluated every year in September-October to get feedback on implementation of the action plan of the current year and contribute to the development of the action plan for the forthcoming year. As the action plan is finalised in January, the PUC is considering conducting staff evaluation in December-January to better align staff evaluation with the preparation of the annual action plan.

The PUC appears committed to improving the working environment. It measures staff satisfaction against its ability to keep trained and professional staff, as well as feedback via annual individual performance assessments, occasionally using internal workshops and questionnaires.

Horizontal mobility or rotation opportunities between sector departments are limited and, with the exception of the legal department, they are not actively encouraged so that staff can acquire an in-depth knowledge of a particular sector. Highly specialized professionals can have a good knowledge of the sector but they might miss opportunities for exploring new areas of work and learning. As there a number of cross-cutting issues across sectors, sector experts could be well-versed in issues facing other sectors and could bring added value to other sector departments. It would also lower the risk of regulatory capture, although this risk would be higher for board member than for professional staff.

Process

Decision making and governing body

The decision-making body of the PUC is the Board, which adopts decisions and issues administrative acts which are binding to specific providers and users of public services. The Board consists of the Chair and four Commissioners.

Decision process

As provided in legislation, the Board votes on each decision. Decisions are taken by voting if at least three Board members vote and the Chair signs off on the decisions. Legislation also requires that voting be open and the results of the voting be recorded in the minutes of each Board meeting, specifying the vote of each Board member separately for each issue examined at the meeting. When signing the minutes of a meeting, Board members may record their views regarding the issues under examination or include a written substantiation of their views to the minutes. Board minutes are available upon request.³

Nomination and appointment

The Cabinet of Ministers nominates the candidates to the positions of Chair and Commissioner after an open call for candidatures advertised in the media and the government website. The nominees are submitted to Parliament, which appoints them after conducting public hearings usually in the Economic Committee. The Chair and Commissioners are appointed for a period of five years and can be re-appointed only once. There are no restrictions on the employment history of Board members, but Board members cannot hold other offices or appointments within/outside government while in office. Board members can be removed before the end of their terms by Parliament or the Cabinet of Ministers.

Legislation is rather general on the skills and experience required for the appointment of Board members. The Law on Regulators of Public Services require Board members to:

- be a Latvian citizen;
- have a relevant higher education;
- have knowledge and experience that can ensure the adequate performance of the tasks determined by the Law;
- be in compliance with the requirements of the Law on Official Secrets and be able to receive a security clearance to access classified documents.⁴

The current board is made up of a mix of professionals with legal, economics, and finance and accounting backgrounds.

Provisions for rotation of Board members are included in EU directives on the regulation of the electricity and gas markets, which require EU Member States to “ensure an appropriate rotation scheme for the board or the top management”.⁵ The EU directives are binding on Member States but are not directly applicable and need to be transposed into national law. There is currently no requirement in Latvian legislation on the staggering of Board members and the lack of this provision is creating some problems. For example, in the first semester of 2016, the terms of three Board members are coming to an end relatively close to each other. Besides the risk of having a vacuum (the Board cannot act without at least three members), continuity and institutional memory could be at stake with such an overhaul of Board membership. To address this problem, the PUC is proposing an amendment to the Law on Regulators of Public Services that should provide for staggering of Board members. This proposal, together with other proposals, was sent to the Ministry of Economics on 15 October 2015 and launched again on 1 February 2016. No clear decision has been made to date but the Parliament has been informed on the proposal.

Preventing conflict of interest

The Law on Prevention of Conflict of Interest in Activities of Public Officials⁶ and the Code of Ethics⁷ provide the formal framework preventing conflicts of interest for Board members. In particular, for two years after the end of their terms, Board members cannot become a shareholder, stockholder, partner or hold an office in those commercial companies over which they have exercised supervision, control or punitive functions.

As a result, most board members come from the public sector (i.e. ministries) or state-owned enterprises not supervised by the PUC as they can more easily go back to their respective organisations/institutions after their term finishes.

Accountability

In line with the Law on Regulators of Public Services, the PUC submits to Parliament a written report on the activities conducted in the previous year and a full financial statement audited by a sworn auditor. This information is published on the PUC's website. Presentation of the annual report to Parliament does not usually give rise to a debate and is not accompanied by a hearing of the PUC in the relevant Parliament's committees.

Like all public institutions, also the PUC is subject to the control of the State Audit Office, Latvia's supreme audit institution. The State Audit Office does not consider the PUC as a high-risk institution and has not conducted any performance audit of the regulator. An external certified auditor reviews PUC's financial performance annually.

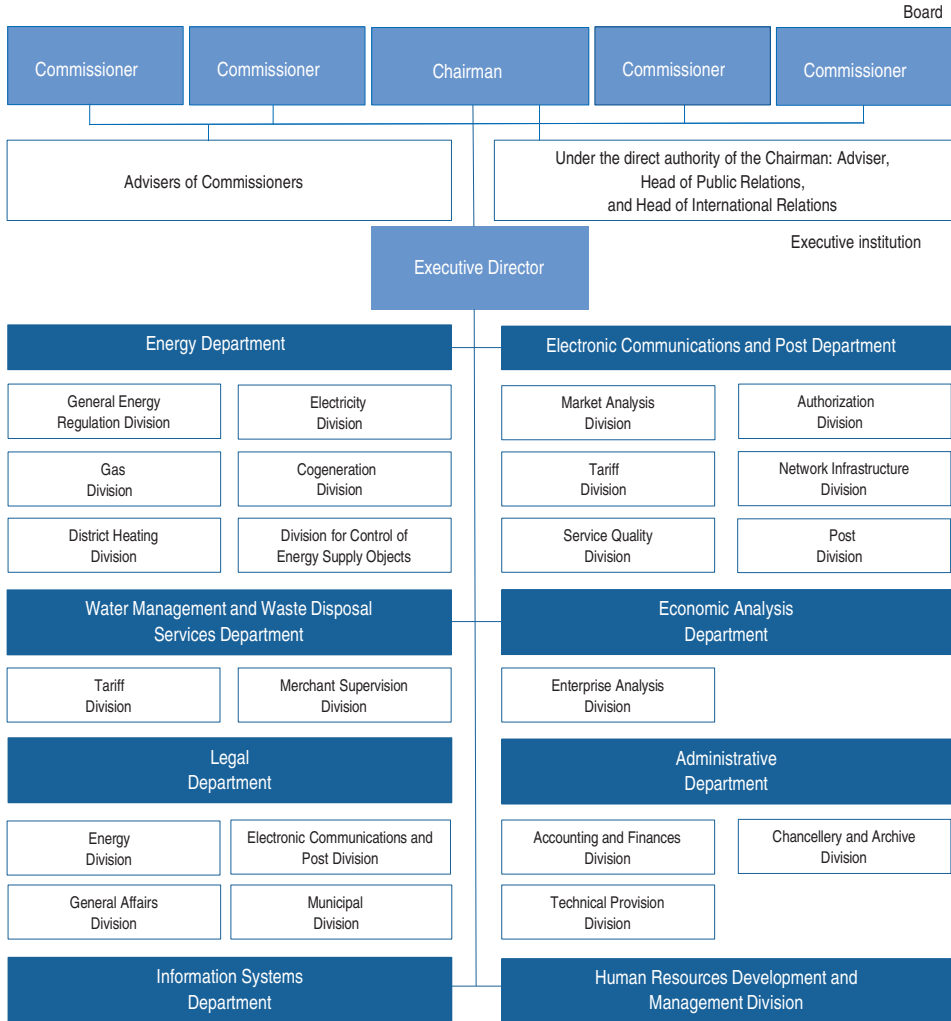
Internal organisational management

The executive body is subordinated to the Board and performs the functions of its secretariat, preparing the issues and documents for examination at the Board meetings and implementing the decisions taken and administrative acts issued by the Board. The head of the executive body, the Executive Director, is responsible directly to the Chair. Also the heads of communications and external relations divisions are directly responsible to the Chair. The directors of departments are responsible to the Executive Director (Figure 3.7). The annual Action Plan specifies the tasks for each year, indicating the leading/responsible structural unit (department or division) and involved structural units. The management of financial and human resources is centralised for the entire PUC.

There is a single economic analysis department and a single legal department that support all the different sector departments (energy, municipal services and rail transport, electronic communications and post). It is in these two "horizontal" departments where common process and procedures are developed for, for example, approaching tariff development (even if methodologies would differ across sectors as provided in the respective legislation) or responding to appeals and court cases. These two departments also exercise a quality check on the proposals and analyses developed for the Board. This institutional set-up help reap the benefits of cross-learning that could come from a multi-sector regulator model. It might

add an extra layer of lengthy administrative procedures if processes are too cumbersome or procedural.

Figure 3.7. The PUC's organisational structure



Source: Information provided by the PUC (May 2016).

The economic analysis department, which is organised along functional units rather than sector units, sets the rate of return, as well as cost allocation among users while tariff-setting is a joint-activity with the relevant sector departments. The department also serves as the central unit to disseminate

learning experiences across sectors. This has proved particularly useful for market opening, which had first started in electronic communications in 2003 and lessons and experiences could then be transferred to energy and gas. The department also co-ordinates approaches towards access regulation, interconnection regulation, and tariff regulation methodologies.

The legal department is divided into sector units with sector lawyers that are responsible for litigation related to specific sectors. The department then serves as the hub where the lessons from court cases across different cases are collected and applied to other sectors and also integrated into PUC decisions (Box 3.4).

Box 3.4. Integrating lessons learned into Board decisions

The existence of horizontal departments has facilitated the inclusions of lessons from a court decision on mandatory inclusion of evaluation of tariff proposals by public utilities in one sector to other sectors. The Law on Regulators of Public Utilities establishes the procedure for setting tariffs that includes the rights for the users of public utilities to comment on the submitted tariff project. The court acknowledged in a particular case in the thermal energy supply sector that the decision about the setting of tariffs must include a brief evaluation of the proposals made by the users of public utilities (water management sector, electricity supply sector). The court decided that the PUC's decision was legal; however, the PUC included in decisions related to other sectors a brief evaluation of the proposals made by the users of the public utilities.

Source: Information provided by the PUC (March 2015).

Stakeholder engagement

The PUC has established a strong culture of transparency and open consultation, reflecting to a large extent an approach that is well established in Latvia's policy-making process. Stakeholder engagement takes place through public consultations, public hearings and board meetings:

- **Public consultations.** When supervising markets in public utilities sectors, analysing the necessity of regulation, planning regulatory measures, reporting on the analysed public service sector and service segment, the PUC prepares a consultation document. The document sets out planned steps and the PUC's initiatives. It also includes issues on which the PUC asks providing answers within the framework of the public consultation. The received recommendations and suggestions are taken into account when planning regulatory measures and developing legal documents. Following approval of consultation document by the board, a public

announcement for public consultation is made ten days in advance. There is usually a two weeks window, and additional rounds of consultations are possible if the issues are complex or if there are substantive changes following the first round. Consultations are not only advertised on PUC's website⁸ but also in the official Latvian newspaper. PUC also provides a news alert which sends weekly updates to alert interested parties on new deliberations. PUC also has to explain its decision-making based on the results of consultation.

- **Public hearings.** In order to further the participation of the market participants in the PUC's decision making process, the PUC organises public hearings. They have a vital role during the process of reviewing any tariff proposal if the PUC has to make a decision on tariff setting, as well as about drafts of legal acts. By arguing their position, all interested parties can express their opinion in a public hearing about a specific public service tariff or draft document, service provider or regulatory issues, comment or make proposals on the issue analysed in the meeting. This means that public service users, representatives from associations for protection of consumer interests, representatives from utilities, representatives from institutions related to regulated services, independent experts, academic institutions and others can participate in the meetings. This guarantees a wide representation of various interests in open meetings. If the issue is relatively straight-forward, Board members receive proposals in advance in preparation for public hearings. If the issue is more complicated, a separate meeting of the board will be held prior to the hearing and to decide either formally or informally depending on the complexity of the issue. Both sides are heard during the public hearings and the expressed opinions and arguments are accorded a status of recommendation when the PUC's Board and staff reconvene afterwards for closed door deliberations followed by the vote – votes are unanimous 99% of the time. The hearing results are publicly available on demand, an obligation under Latvian law. Minutes are only public available in special cases. When a tariff proposal, related to a particular administrative territory, is being evaluated, this information is published in the regional mass media and homepages of the local governments. Information on all planned public hearings, as well as minutes of public hearings are published on the PUC website www.sprk.gov.lv/lapas/sabiedribas-lidzidaliba#Uzklausisanas-sanaksmes.

- **Board meetings.** Utilities are specially invited to participate in the Board meetings, where there is a topic on the agenda concerning a particular service provider. At the Board meeting, the Chair usually gives the floor to an invited public utility. After evaluating its proposals, if any, the Board makes a decision. Opinions or proposals of public utilities are recorded in the minutes of the meeting, which are public. Since the PUC's Board meetings are open except special cases when confidential issues are considered, everyone has an opportunity to participate in a Board meeting. It is relatively rare that simple users participate in the meetings, whereas it is common that public utilities participate in Board meetings. The time and agenda of a Board meeting is published on the PUC's homepage at least three working days before the Board meeting so that everybody can find out what issues will be considered in the relevant Board meeting, as well apply for participation: www.sprk.gov.lv/lapas/board-meetings-and-decisions/.

Appeals

Citizens can file complaints about service quality and access in the sectors regulated by the PUC, and they do so usually through post. The Law on Submissions prescribes the procedures by which a private person can submit and an institution must examine a document, which incorporates a request, a complaint, a proposal or a matter within the competence of the institution, and must reply thereto, as well as prescribes the procedures by which the institution must receive visitors. The Law on Submissions also applies to examination of a submission received in electronic form, if it has been signed with the electronic signature.

An administrative act or an action of the PUC can be appealed to an Administrative Regional Court. The Administrative Regional Court adjudicates the matter as a court of first instance. A court judgment can be appealed submitting a cassation complaint. The submission of an application to a court for revocation does not suspend the operation of such administrative act.

Appeals are mostly filed by regulated entities. However, appeals on tariffs are mostly filed by consumers, especially when concerning municipal services. The number of PUC decisions that have been appealed in courts is relatively low in recent years, with the exception of 2011 (Table 3.6). The spike in appeals that year was due to organised lawsuits (over 40) brought up by the association of small hydro power plants with regard to fixed average tariff.

Table 3.6. **Appealing PUC decisions**

Year	Number of decisions taken	Number of decisions appealed	Number of completed litigation processes out of pending cases
2015	174	1	1/70
2014	407	2	8/62
2013	173	13	15/68
2012	331	6	13/70
2011	433	84	21/77

Note: information reflecting the situation as of 30 September 2015.

Regulatory quality tools

The requirements for tariff proposals are set by each tariff calculation methodology and the regulations on cost justification for tariff calculation.⁹ *Ex post* evaluation of the approved tariffs is based on the annual reporting of the service providers on actual costs of service provision.

The PUC does not conduct a specific impact assessment on the by-laws it issues. The normative regulations adopted by the PUC are based on a specific mandate granted by law, in which case the legislative process (in government and parliament) includes the cost-benefit analysis according to the procedure prescribed by initial assessment procedure for draft normative act.¹⁰

Output and outcome

Assessing the performance of regulated entities and the regulated market

The PUC collects performance information on compliance with regulation and industry standards and financial performance of regulated entities. Most of this data is reflected in PUC's annual report. However, some information, including commercial data, is reserved for internal analyses when making regulatory decisions. The typical information requested includes market analysis, service amount, costs and revenues. In order to help regulated entities prepare the report in a suitable manner, the PUC has prepared manuals specifying information that has to be included in reports. The aim of the manuals is to provide simplified and detailed information to operators, particularly those in the water sector with lower capacity, on how to fill up annual reports. Collecting annual reports from regulated entities helps the PUC to monitor and assess whether the service

provider can continue operating with the approved tariff or has to submit a new draft tariff.

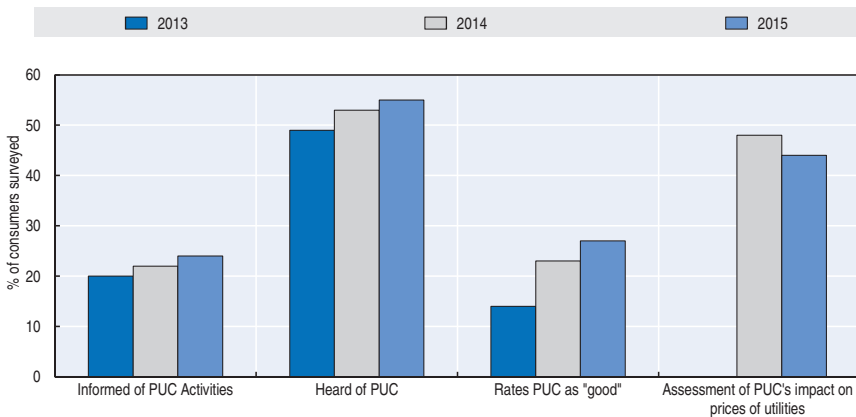
Assessing the performance of the regulator

For the electricity sector, the PUC prepares an additional annual “report on the quality of distribution services” that looks specifically at distribution system operators (DSOs).¹¹

Regular reporting on the PUC’s Action Plan is used to measure the performance of the PUC. Before 1 July of every year, the PUC submits to Parliament a report on the activities conducted in the previous year and a financial statement certified by an external auditor.

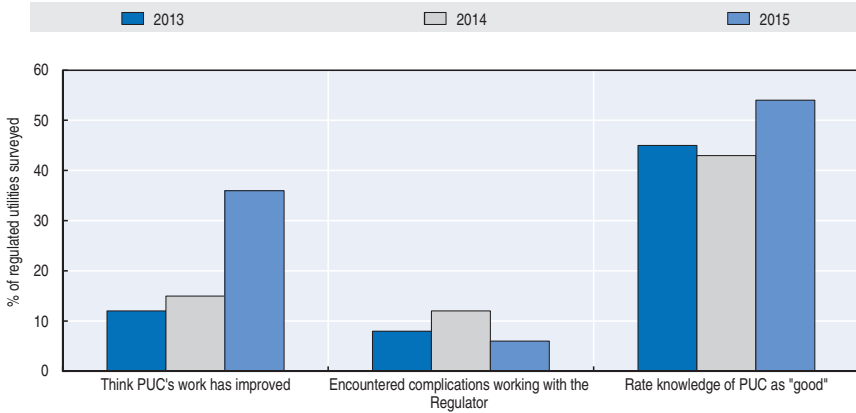
Since 2013, the PUC commissions an annual public perception survey to both users and regulated industries. This survey is conducted by an external marketing and public opinion research centre. The 2015 Survey received responses from 271 companies and 1 003 individuals selected based on a representative sample of residents in Latvia. In general, the majority of those surveyed have heard of the PUC and the perception of the PUC has improved over the last two years in both consumer and industry groups (Figures 3.8 and 3.9).

Figure 3.8. **Consumer recognition of PUC, 2013-15**



Source: information provided by PUC based on its public perception surveys.

Figure 3.9. Regulated industry's assessment of PUC, 2013-15



Source: information provided by PUC based on its public perception surveys.

Notes

1. www.sprk.gov.lv/uploads/doc/StrategijaENG29042015.pdf.
2. In electronic communications and postal services the term fixed by law is five years, but in practice PUC has suspended licences no more than for three years.
3. Law on Regulators of Public Services, Section 43.
4. Law on Regulators of Public Services, Section 37.
5. Art. 35(5) in the EU Directive 2009/72/EC (electricity) and EU Directive 2009/73/EC (natural gas).
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ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The OECD is a unique forum where governments work together to address the economic, social and environmental challenges of globalisation. The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population. The Organisation provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.

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The Governance of Regulators

Driving Performance at Latvia's Public Utilities Commission

As “market referees”, regulators need to be constantly alert, monitoring trends as well as assessing the impact of their decisions. What should be measured? Is it possible to attribute impacts to regulators’ decisions? How to make effective use of what is measured? How should the organisational structure and governance be optimised? Addressing these questions effectively can ultimately determine whether trains will run on time, there is clean water in the tap, lights switch on, the telephone and internet work and there is cash in the ATM machines. To help regulators in their quest to better evaluate their performance, the OECD has developed a Performance Assessment Framework for Economic Regulators (PAFER) that looks at the institutions, processes and practices that help regulators improve their organisational impact.

This report applies the PAFER to Latvia’s Public Utilities Commission, which is responsible for regulating energy, communications, postal services, water and waste, providing unique insights into the work of a multi-sector regulator. It is part of the Governance of Regulators series, which brings together research and recommendations on what makes “world class regulators”, drawing on the experiences of more than 70 regulators from network sectors, including energy, communications, transport, water and payment systems.

www.oecd.org/gov/regulatory-policy/ner.htm

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Assessment and recommendations

Chapter 1. Methodology and approach

Chapter 2. Regulatory context

Chapter 3. From objectives to outcomes at Latvia’s Public Utilities Commission

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