



Project Funded by the
European Union



Georgian National Energy and Water Supply Regulatory Commission (GNERC)

ASSESSMENT REPORT

Murman Margvelashvili
Giorgi Mukhigulishvili
Tutana Kvaratskhelia

WORLD EXPERIENCE FOR GEORGIA
2017

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Executive Summary

Since of its establishment in 1997, Georgian Energy and Water Supply regulatory Commission (GNERC) has significantly improved its name as an independent regulator which is not controlled by any state institution. Commission is independent in its activities and is subject to the Legislation of Georgia. GNERC is the only regulator responsible for energy and water supply sector and is fully funded from regulatory fee.

While commissioners do not have visible relations with political parties or past political experience there are some improvements needed in the process of appointing commissioners, considering the fact, that today selection process of candidates is non-transparent and requirements are not very well described.

Another important issue with the GNERC is legislative drawbacks that are not in line with the EU directives and impede GNERC to implement its functions. For example, in 2006 the market structure in Georgia has substantially changed and important part of sector regulatory functions have been transferred to the Ministry of Energy, these functions include approval of electricity market rules, approval of electricity (capacity) balance, and approval of 10 year electricity Transmission Network Development Plan etc. Implementation of these plans are responsibility of GNERC, so the commission is monitoring the plans it did not approve.

GNERC is in better condition in regard with accountability and transparency issues. Regularly publishes annual reports on its activities, financial reports and reports about the freedom of information. Commission held public hearing sessions and most of the decisions are made with public participation and stakeholder involvement. In addition to public hearings, the website also provides the users with the information on how to register as an electricity or gas consumer, what are the tariffs, how to increase supply capacity, etc. The corresponding forms are available for the customers to submit statements on these issues. The tariff components by each regulated enterprise are also transparent.

The Commission is implementing the monitoring of adopted regulations and has permanent consultation with stakeholders to assess the impact of the regulation, if commission sees that the regulation is overburdening or has some other problems, it makes amendments to the regulation.

As mentioned above, the commission sets tariffs annually, individually for each utility and is in force for 1 year period. In 2015 new methodology was developed under the Twinning program funded by EU in cooperation with Austrian Energy regulator E-Control. GNERC starts to calculate electricity tariffs once in a 3 years. This creates better condition for consumers as tariffs will be more predictable. Natural gas sector is more complicated but some improvements are made with this regard as well.

In order to ensure compliance with the requirements foreseen by the primary and secondary legislation, GNERC has the right to carry out inspections of regulated undertakings. According to the Administrative Offences Code, amount of the penalty in case of non-compliance with the licensing terms and conditions determined by GNERC is not often adequate and needs to be changed.

In 2016 the commission resolved 4085 disputes. The number of disputes has increased compared to previous years. This means that on the one hand, awareness of the public has raised and they know how to address the issues, but on the other hand, this also indicates the problems in the sector. According to GNERC, the work on improvement of Electricity Supply and Consumption Rules is carried out, which is intended to notably decrease the number of disputes.

Assessment Table - Scorecard

Georgia - Georgian National Energy and Water Supply Regulatory Commission (GNERC)	2016	2017	In charge	Improvement measures
GOVERNANCE				
Independence			Parliament	Transfer the following functions to the GNERC from the Ministry of Energy: Approving the power and gas market rules; Approving the 10 year power network and gas transmission infrastructure development plans;
Budget and subordination			GNERC	
Changes in management			President, Government and Parliament	Clear and fair selection procedures, competences and criteria
Informal political pressures			Parliament	Repeal the legislative amendment initiated by the Ministry of Energy
Relation with the regulated sector			GNERC	
Accountability				
Reporting and confirmation/verification of management			GNERC	
Accountability to consumers, industry, public			Parliament	
Financial and audit			GNERC	
Ethics and implementation of rules			GNERC	The regulator has to elaborate its own code of ethics, which must be applied in practice. GNERC should strengthen its effort in monitoring and reporting the fulfillment of the requirements under the Law on National Regulatory Authority (article 15)
Transparency				
Publishing decisions			GNERC	
Effective consultation			GNERC	
Responses on FOIA requests			GNERC	
Predictability				
Consistency and motivation of regulations			GNERC	
Adapting to environment			GNERC	
SUBSTANCE				
Tariffs and prices				Reapl the Decree #69 of the Minister on Deregulation and Partial Deregulation of Natural Gas Supply Activity, and tariffs for all household consumers shall be set by GNERC.
Economically efficient			GNERC	Gas tariff methodology needs improvement
Periodic reassessments			GNERC	
Monitoring markets, granting licenses				
Capacity to penalize breaches of regulation			GNERC	
Transparent criteria to grant / withdraw licenses			GNERC	Effective and fair penalties
Consumer protection, management of complaints			GNERC/Energy Ombudsman	

	Unsatisfactory
	Moderately satisfactory
	Good
	Good practice
	N/A or no data

GOVERNANCE

Independence

Georgian National Energy and Water Supply Regulatory Commission (GNERC) was established as an independent regulator under the law „on Electricity” adopted by the Parliament of Georgia, on June 27, 1997. The first members of the Commission were assigned by the Decree of the President of Georgia on August 8, 1997. The Commission has been regulating electricity sector since 1997 and gas sector since 1999 based on the law on Electricity and Natural Gas. Status of GNERC as an independent regulatory authority is also guaranteed by the law on Independent National Regulatory Authorities, which was passed by the parliament in 2002.

Budget and subordination

Today GNERC’s authority applies to the companies in the electricity, natural gas, and water supply sectors. The authority itself is defined by the Law on Electricity and Natural Gas, and the Law on Independent National Regulatory Authorities. According to these legal acts, the Commission is a Legal Entity of Public Law with special capacity, which is not controlled by any state institution. The Commission is independent in its activities and is subject to the Legislation of Georgia. The main source of funding of the Commission is a regulatory fee, which is associated with the public and independent exercise of regulatory functions in the sectors under its jurisdiction, according to the legislation of Georgia. The Commission can also be funded from the state budget and can receive grants. However, no state funding has been recorded in any form of the state budget.

The Commission is completely separated legally from other regulatory bodies (Georgian National Communications Commission and Competition Agency) and does not cover their activities. However, there are some legislative drawbacks that are not in line with the EU directives and impede GNERC to implement its functions. For example, in 2006 the market structure in Georgia has substantially changed and important part of sector regulatory functions have been transferred to the Ministry of Energy (approval of electricity market rules, right of deregulations, approval of electricity (capacity) balance etc). In 2013, the Transmission System Operator and the Ministry of Energy were identified as responsible bodies for developing and approving the electricity Transmission Network Development Plan, while, market monitoring and monitoring of the ten year plan are being implemented by the GNERC.

Changes in management

According to the commission charter and the law on electricity and natural gas the commission consists of 5 members. The candidates are nominated by the president agreed with the government and presented to the parliament which approves them for 6 year term. The commission has a chairman and an executive director (not a member of the commission).

After assigning the authority for water regulation, the number of commissioners was increased to 5 instead of 3. However over a number of years, the commission was understaffed and the seats of two additional commissioners remained vacant. Earlier in 2015, the Government has rejected the president’s nominees twice. The commission with 2 acting members is not authorized to make decisions, on 6 October 2015 the mandate of one of the three members of the commission expired, and the new commissioner was not appointed until 27 October 2015, GNERC was unable to adopt any decision for over 20 days.

The reasons and consequences of commission being represented by 3 members is unclear. Either the commissioners were overloaded or could not implement the regulatory functions in all sectors fully. Some analysis and lessons learned need to be conducted to clarify the issue.

The selection criteria for potential commissioners are limited to the mandatory requirements listed in the Law on Electricity and Natural Gas, according to which a candidate must be a citizen of Georgia with higher education and sufficient qualification and experience to carry out the tasks foreseen by the law. The requirements are broad and not elaborated any further. In addition, there is no legal requirement to publicly announce the vacancy for the position of a commissioner, and no such announcement is made in praxis. There is no legal requirement for transparency in the selection. A commissioner may be re-elected for another six-year term. The number of re-elections is not limited, which is not in line with the acquis. Furthermore, the law ensures that the end dates of the commissioners' term continue to be different by requiring that if a position of a commissioner becomes vacant prior to expiration of the term, a new commissioner should be elected for the remainder of the term.¹

Today the commissioners do not have visible relations with political parties or past political experience which is significant step forward considering the fact, that in previous period, the commissioners have been appointed due to their political loyalty and affiliation.

Informal political pressures

As mentioned above, GNERC is independent in its decisions and apparently does not get instructions from the Government or the Ministry of Energy, but GNERC shares certain competences of national regulatory authorities foreseen by the acquis with the Ministry of Energy. The ministry is responsible for approval of electricity and natural gas balances. Furthermore, the Law on Electricity and Natural Gas confers the right to approve market rules to the Ministry of Energy both in the electricity and natural gas sectors. The market rules are the main document regulating wholesale markets and various issues related to their functioning, including congestion management, balancing and capacity allocation for cross-border transmission lines².

During the pre-election period in 2012, the main opposition party (Georgian Dream) promised to cut down the electricity and gas tariffs in half. After winning in elections the party said that halving the tariffs was unrealistic³, but in January 2013, the GNERC reduced the tariff by 0.035 GEL for the residential customers consuming less than 300 kWh/month, and by 0.027 GEL for those consuming more than 300 kWh/month based on the Memoranda of Understanding (MoU) between the Government of Georgia and energy companies⁴, for legal entities, the tariff has remained the same⁵.

Relation with the regulated sector

According to the law on Independent National Regulatory Authorities, the commissioners and members of their family, as well as staff members of the regulator shall not have any direct or indirect economic interest in the license holder, or to hold any position in a licensed company, also commissioner and the staff member does not have the right to receive a gift from a person or organization, on which the powers of the national regulatory authority extends, or to benefit from the same person's or organization's preferential or free services, except in cases where the service is publicly available (Article 15).

¹ Energy governance in Georgia – Report of Compliance with the Energy Community Aquis, Energy Community Secretariat, July 2017

² Energy governance in Georgia – Report of Compliance with the Energy Community Aquis, Energy Community Secretariat, July 2017

³ <https://goo.gl/6XxZ26>

⁴ http://gnerc.org/uploads/dad2013/dadgenileba_3.pdf

⁵ <http://factcheck.ge/article/irakli-gharibashvili-3-tslis-tsin-tariphis-shemtsirebith-daizoga-chveni-mosakhleobis-daakhloebith-150-mln-laramde-thankha-es-aris-is-thankha-rasats-mosakhleoba-zedmetad-ikhdidat-tsebis-ganmavlobashi/>

Accountability

Reporting and confirmation/verification of management

The law of Georgia on Electricity and Natural Gas defines accountability requirements of the commission, according to which, the Commission shall prepare the annual activity report and present it to the President of Georgia, Georgian Parliament and the Ministry of Energy. The report has to be accessible to the general public until April 1st. (article 21). The Commission shall also prepare and publish an annual financial report reflecting amounts of the regulatory fee received and the Commission's expenses during the year, as well as the loans taken during the year and other funds used by the Commission. The Commission shall ensure the promulgation of its financial report (Article 20).

The GNERC regularly publishes annual reports according to the law. The content of the annual report is improving gradually, for example, 2016 report provides the detailed description of electricity and gas markets as well as vast information on ongoing and planned activities in the regulated sectors. The report also contains the information on dispute settlements, international relations, publicity of information, budget expenses etc.

The Commission provides consumers with detailed instructions on network access, capacity increase, payment of accrued fees and other rules on electricity and gas sector.

Accountability to consumers, industry, public

The GNERC shall be fully compliant to the freedom of information requested by Article 49 of Chapter III of the General Administrative Code of Georgia. The Commission is obliged to issue the requested information immediately or within 10 days.

Communication with the public was one of the main priorities of the Commission during 2016. The aim of the Commission is to inform timely all interested individuals, organizations and media outlets on important ongoing issues, it concerns the various activities implemented by the Commission as well as the protection of consumer rights in electricity and natural gas sectors.

Financial and audit

According to the article 5 of the Charter of GNERC, the main source of the Commission's Budget is regulatory fee paid by regulated entities. The Commission can also be funded from the state budget and can receive grants.

Regulatory fee shall be transferred to the bank account of the Commission. The Commission exclusively manages funds in the bank account. Unused funds will be transferred to the account of the following year, with a corresponding reduction of the regulatory fee for that year. If necessary, the Commission is allowed to take a loan. Payment of such a loan and accrued interest is made from the regulatory fees.

As mentioned above, According to the law of Georgia on Electricity and Natural Gas, The Commission shall also prepare and publish a financial report of the past year reflecting the amounts of regulatory fee placed on the Commission's account and the Commission's expenses from this account during the year, as well as the loans taken during the year and other funds used by the Commission. Control over the fiscal activities of the Commission shall be exercised by the competent authorities in accordance with the Georgian legislation in force, including by an independent auditor selected based on open tender by the Commission.

The commission does not publish financial report as a separate document, but in the annual report a special chapter is dedicated to the budget and its performance parameters. This chapter has been improved in comparison with previous reports and includes information on revenues by sectors (annually and quarterly) and expenses by different parameters, including: Purchase of goods, services,

insurance, membership fees, salaries, business trip, etc. The report also shows the dynamics of expenditures over the previous years, and explains the reasons for the incompatibility of the existing budget with the planned budget.

In 2014 GNERC started publishing independent auditor's reports. During the last 3 years, audit has been carried out by the same audit company, according to which, the financial statements fairly reflect the financial situation of the GNERC. The audit company is being selected based on the tender. Information on procurement and tenders is available on the website of the Commission. The tender is announced electronically.

Ethics and implementation of rules

Existence and public availability of the Code of Ethics is important for the credibility of the Commission. It is necessary that the Commission members and staff are guided in accordance with the predefined instructions when it comes to the decisions, potential conflict of interests and etc. It is important that the regulator describes and analyzes these issues in a very detailed and transparent manner.

In the case of GNERC, the ethical norms are defined in the Law on National Regulatory Authority (article 15) which indicates the information about the inappropriate behavior of the commission members and staff (Membership of political organizations, holding shares in regulated companies, receiving gifts from license holders etc.)

On April 8, 2003, the Georgian National Energy Regulatory Commission approved the "Rules of Professional and Ethical Behavior of Commission members and employees", which further clarifies the issues related to the behavior of commission members and employees.

In 2015 Transparency International (TI) Georgia was studying whether GNERC has department responsible for investigating conflict of interest of its employees, TI requested the information on violation of norms of ethics determined by article 15 of the law in 2010-2015.

The commission responded, that the law does not require it to set up a department responsible for investigating conflict of interests among its employees. The commission reported, that in 2010-2015 there were no cases or attempts of improper influence or illegal interference, and no violation of ethic norms. Therefore, during the same period, none of the decisions made by the GNERC have been overturned due to the improper influence or illegal interference.

Despite this response from the commission, several non-governmental organizations have raised questions about conflict of interests within GNERC.⁶

There was no change in this regard in the Commission. The Commission does not have the Code of Ethics and is guided by the requirements set by the law, but there is no Committee or a separate group that will monitor the fulfillment of these requirements.

⁶ <http://www.transparency.ge/en/post/report/implementing-georgia-s-anti-corruption-laws-practice-remains-problem>

Transparency

Publishing of Decisions

In terms of transparency of GNERC, the rule of publication of decisions and the public hearings shall be noted. On the website of the Commission there are separate sections for public hearings and public information, which provide detailed information about the decisions made or about planned activities. Once a week (on Thursday) The Commission holds Public Hearing sessions. The agenda is published on the www.gnerc.org 7 days before the hearing. The Commission's sessions are open to the public and any interested person may attend.

In addition to public hearings, the website also provides the users with the information on how to register as an electricity or gas consumer, what are the tariffs, how to increase supply capacity, etc. The corresponding forms are available for the customers to submit statements on these issues. The tariff components by each regulated enterprise are also transparent.

Effective consultation

According to the Article 12 of the law of Georgia on Electricity and Natural Gas all resolutions and decisions, orders, records, and other documents of the Commission shall be accessible for public examination. However, until a specific decisions are made, the Commission is actively consulting with both license holders and other contracting parties, as well as other stakeholders. According to the Article 16 of the same law, Rules for meeting of the Commissioners and staff employees with stakeholders shall be established by the Commission. Pursuant to these rules, a Commissioner shall notify in writing and in advance the stakeholders of such consultations and provide them with an opportunity to take part in the consultations.

At present, involvement of stakeholders and consultations in the decision-making process is an accepted practice, the commission discusses the issues publicly as well as with smaller groups of experts and stakeholders. There is a special timeframe for interested parties to comment on draft regulations created by the commission and the final decisions are also published online.

Decisions may be appealed to the court, but considering the engagement and consultations in the decision-making process, such practice is quite rare.

Responses to FOIA requests

Every year GNERC publishes a report on issuing public information, the report describes what kind of information was requested from the commission and whether the requirements were fully satisfied or not. Most requested information is fully satisfied, several requests are satisfied partly and in this case the reasons are explained. There are only a few cases when the Commission refused to give the information and in this case the reasons were explained.

In 2013 the Institute for Development of Freedom of Information (IDFI) was requesting an information from GNERC on Employees' payment and bonuses. The Commission did not issue this information arguing that GNERC is an independent body, not financed from the state budget and thus is not obliged to provide an information on Employee salaries and that this information is confidential. IDFI appealed this decision to the court but the court did not satisfy the complaint, explaining, that according to Georgian legislation, GNERC employees (except for the members of the Commission and the Public Defender of Consumers' Interests) are not public servants who are obliged to present their income and asset declarations. The inquiry would possibly result in disclosure of their financial data,

which is not rightful without the consent of these persons. IDFI on the other hand was arguing, that this information should have been public and it would not disclose the personal information.⁷

Situation has improved since 2013. In 2015 IDFI gave a Special Award to the Commission for ensuring availability of public information. In IFDI report concerning the status of freedom of information in Georgia in 2010-2015 years, it was noted that GNERC made the best progress in regard of information availability indicators.

Predictability

Consistency and motivation of regulations

It is crucial that regulations are precisely defined, which will make the regulator's activity predictable. For the full implementation of the Commission's work, it is also necessary to review the tariffs regularly and make changes if necessary.

Legal basis for the commission in calculating electricity tariffs for regulated utilities operation in the electricity sector is “Tariff Setting Methodology for Electricity Distribution, Pass Through and Consumption Tariffs” and “Tariff Setting Methodology for Electricity Generation, Dispatch and Market Operator Service” approved under the resolution #14 of the Commission of July 30, 2014 “On Electricity Tariff Setting”. According to these regulations, the Commission sets tariffs annually for a particular enterprises, this also refers to gas tariffs.

However, if required, the Commission reviews the tariffs in the course of the year, For example, in 2015, one of the distributor's companies requested the Commission to revise the tariff in the middle of the year due to a significant change in the national currency exchange rate, The Commission did not wait until the end of the year and started the revision process. Such a flexible system allows to adapt to a changing environment.

Adapting to the environment

The Commission is implementing the monitoring of adopted regulations and has permanent consultation with stakeholders to assess the impact of the regulation, if commission sees that the regulation is overburdening or has some other problems, it makes amendments to the regulation.

In 2014, under the EU funded Twinning project ““Strengthening capacities of the Georgian National Energy and Water Supply Regulatory Commission (GNERC) in updating incentive based electricity tariff methodology” significantly increased the knowledge and skills of GNERC management and its staff in the electricity sector regulation with specific reference to incentive based electricity tariffs, benchmarking, data monitoring and management and quality of service regulation in line with the EU Energy Acquis and best practices. The project was implemented by E-Control, the Austrian energy regulatory authority.

In 2016 GNERC introduced the amendments related to micro generation power plants (net metering) to the primary and secondary legislation in order to support the development of renewable energy sources, enabling retail consumer to generate electricity for own consumption and deliver excess electricity on a bus bar and get the relevant fee in return.

⁷ <https://idfi.ge/ge/news-86>

Relations with international organizations

In 2017 GNERC became a member of Energy Regulators Regional Association (ERRA). ERRA is a voluntary organization comprising of independent energy regulatory bodies primarily from Europe, Asia, Africa, Middle East and the United States of America. The Association's main objective is to increase exchange of information and experience among its members and to expand access to energy regulatory experience around the world.⁸

The international organizations play important role in the improvement of quality of regulation. The USAID and the NARUC significantly contribute to the process of carrying out the Commission's functions. Cooperation with International Water Association (IWA) and Network of European Service Regulators (WAREG) is also of special importance for GNERC.

SUBSTANCE

Tariffs and prices

Economically efficient

The basis for calculation of tariffs is the Law of Georgia on Electricity and Natural Gas and the Tariff Calculation Methodologies approved by the Commission.

Electricity

The commission sets tariff for 2 distribution, 8 generation (including 4 thermal power plant) 2 transmission and 1 dispatch licensees. Tariff setting based on new methodology is in accordance with the international practice of incentive regulation (marginal price regulation) principles, which stimulates increase of the efficiency of the utilities. The main principals for tariffs calculation are as follows:

- protect consumers from the monopolistic prices;
- stimulate utility to increase its efficiency via optimization of its costs with the requirement not to decrease quality of service standards and technical conditions of the utility;
- support the increase of the utility's' returns by means of increased operational and management efficiency;
- support the stable and reliable functioning of the utility;
- ensure that tariffs are transparent, stable and fair for the utility;
- reflect the state policy with regard to discount tariffs, provided that none of the consumer categories shall receive a discount tariff subsidized by licensee, importer, market operator or any other category;
- reflect different costs between the different consumer categories;
- Cover costs of the utility with funds received from each consumer category in proportion to costs incurred for servicing this consumer category⁹.

As mentioned above, the commission sets tariffs annually, individually for each utility and is in force for 1 year period. In 2015 new methodology was developed under the Twinning program funded by EU in cooperation with Austrian Energy regulator E-Control.

A three-step electricity tariff scheme is in force in Georgia to promote energy efficiency and to protect vulnerable consumers. The rates depend on how much electricity is consumed by customers per month. The consumers who use more electricity will pay the electricity bill with high tariff. The first-

⁸ <http://gnerc.org/ge/siakhleebi/11428/11428>

⁹ GNERC Resolution N14 on approving Electricity Tariff Calculation Methodologies

step tariff applies to households which consume less than 101 kWh electricity per month, the second-step tariff, applying to customers who consume between 101 and 301 kWh electricity and the third-step tariff, applying to customers who consume more than 301 kWh of electricity per month.

Natural gas

Transportation and distribution of natural gas represent natural monopolies and this network activity is subject to tariff regulation by the commission. GNERC sets natural gas supply, pass through and consumption tariffs for residential customers, were gasified before 1 August, 2008. Natural gas supply tariff for the rest of residential customers is deregulated according to the Decree #69 of the Minister on Deregulation and Partial Deregulation of Natural Gas Supply Activity. As of 2015, 78,2% of the total amount of gas supplied to household customers were supplied under the tariff set by GNERC, whereas the rest represented the deregulated segment. The decree #69 represents another barrier for GNERC to implement its function effectively. Natural gas supply tariffs for non-household customers are deregulated and are 50-55% higher than regulated residential tariffs. According to the statement of the deputy minister of energy, the “deregulation order” is on the abolition stage, there are some formal procedures to accomplish, after which the Decree #69 of the Minister of Energy on Deregulation and Partial Deregulation of Natural Gas Supply Activity will no longer be in force.¹⁰

According to the Tariff Setting Methodology for Natural Gas, the tariff setting is in accordance with the “Cost Plus” regulation principle which stimulates the stable functioning of the utility, recovery of reasonable costs and gain fair profit. Compared to electricity tariff methodology, there is not used incentive based tariff methodology in gas sector, however the commission is working on this issue and gas tariffs will also be incentive based.

This Methodology and the tariffs set on its bases

- Protect consumers from the monopolistic prices;
- support the stable and reliable functioning of the company;
- ensure that tariffs are transparent, stable and fair for the companies;
- reflect different service costs between the customer categories;
- Cover costs of the company with funds received from each customer category in proportion to costs incurred for servicing this customer category.

In 2017, for the first time GNERC calculated the tariff based on new methodology for gas transportation, distribution and supply for regulated segment.

Periodic reassessments

The commission sets tariffs annually, individually for each utility and is in force for 1 year period but in case of necessity commission may review the tariffs by the end of the year on the basis of the Licensee's application. GNERC plans to review electricity tariffs once in a three year.

¹⁰ <http://www.bm.ge/ka/article/bunebrivi-gazis-axali-tarifebi-deregulirebul-abonentebzec-gavrceldeba/13273>

Market Monitoring and Licensing

Capacity to penalize breaches of regulation

The market monitoring is one of the most important functions of the regulator, since it gives opportunity to the commission to supervise market participants and determines how market development is in line with existing rules and regulations. Market Monitoring helps to find out existing gaps and thus creates prerequisites to start working on their improvements.

The Commission is authorized to carry out electricity and natural gas and market monitoring which includes studying of wholesale and retail prices, commercial relationships, analyzing suppliers' behavior etc.

In 2016 the Electronic Monitoring System of Commercial Quality of Service was developed and implemented in the Commission through which the reporting is carried out on the fulfillment of the services provided by the "Commercial Quality Rules for Services".

Georgia made progress on the index which refers to making it easier to get electricity and succeeded by 26 position from 65th to 39th place according to the report of the World Bank "Doing Business 2017". Georgia improved the reliability of electricity supply by introducing penalties for the utility for having worse scores on the annual system average interruption duration index (SAIDI) and system average interruption frequency index (SAIFI) than the previous year. Georgia also mandated the notification of customers by the utility of planned electricity outages.

Within the framework of the Twinning Project entitled Strengthening Capacities of the GNERC in Regulatory Cost Audit and Market Monitoring, funded by the European Union, GNERC is working on developing market monitoring rules, which will bring some improvement in this direction.

Transparent criteria to grant / withdraw licenses

According to the Georgian Law on Electricity and Natural Gas, the Commission shall be authorized to grant licenses and regulate activities of licensees, importers, exporters, ESCO and suppliers within the electricity and natural gas sectors of Georgia. (article 4) the main functions of the commission with this regard is to a) The establish rules and conditions for electricity generation, transmission, dispatch and distribution, natural gas transportation and distribution as well as for water supply, issuance of licenses, modification and revocation of licenses in compliance with the Law of Georgia on Licenses and permits, this law and licensing rules.

GNERC has issued 25 licenses in the power sector. There are 28 license holders in the Georgian natural gas sector, including 1 transportation and 27 distribution license-holder. It should be noted that in the distribution sector 3 large license holders distributed 90% of total volume.

In order to ensure compliance with the requirements foreseen by the primary and secondary legislation, GNERC has the right to carry out inspections of regulated undertakings. According to the Administrative Offences Code, in case of non-compliance with the licensing terms and conditions determined by GNERC, a penalty in the amount of GEL 5.000 may be imposed. Following the requirements foreseen by the Law on Licenses and Permits, Resolution No. 23 of GNERC approving the Rules on Control of Activities and Licensing in Electricity, Gas and Water Supply Sectors provides that if the breach is not remedied within the time indicated by GNERC, the penalty may be tripled. Furthermore, GNERC may revoke a license if infringement is not remedied after the fine has been tripled twice, or if it is clear that imposing a fine will not have any effect on implementation of the licensee's obligations. Where revoking a license would result in more damage than good, GNERC may

decide to allow the licensee to continue its activities and set additional requirements. Such requirements are not precisely defined by legislation, but can be defined based on the specific circumstances of the very case. In praxis, this tool is rarely used. If the licensee nevertheless fails to fulfil its obligations, GNERC may decide to implement the obligations itself or through a third party, at the expense of the licensee. Where such arrangement is impossible, the court may appoint a special manager at the request of GNERC.¹¹

Consumer protection, management of complaints

According to the Georgian Law on Electricity and Natural Gas (article 4(5)), one of the main responsibilities of the Commission is settlement of disputes arising between licensees, small power plants, importers, exporters, suppliers and consumers, also the commercial system operator within its competence.

The Commission is independent in its decision-making process. It resolves disputes impartially and in full compliance with legal requirements. Despite the fact that Public Defender's office of Customers' Interests is functioning independently from the Commission's apparatus, protection of customers' interests is still one of most important functions of the Commission.

In 2016 the commission resolved 4085 disputes. The number of disputes has increased compared to previous years. This means that on the one hand, awareness of the public has raised and they know how to address the issues, but on the other hand, this also indicates the problems in the sector. According to GNERC, the work on improvement of Electricity Supply and Consumption Rules is carried out, which is intended to notably decrease the number of disputes.

Recommendations

- Energy regulator should be equipped with all necessary regulatory authority recommended by the EU energy legislation. Therefore, it is recommended to change the existing legislative base and transmit the following functions to the GNERC from the Ministry of Energy:
 - Approving the power and gas market rules;
 - Approving the 10 year power network and gas transmission infrastructure development plans;
- Repeal the legislative amendment initiated by the Ministry of Energy according to which, after the expiry of the term, the Commissioner's authority will continue until a new member is elected. This violates the principle of rotation.
- In order to avoid possible disagreements among president, government and the parliament on the selection of the commissioners there should be clear and detailed selection procedures, competences and criteria.
- The regulator has to elaborate its own code of ethics, which must be applied in practice (e.g., avoidance of conflicts of interest, rules of conduct in sensitive situations etc.);
- It is recommended GNERC to strengthen its effort in monitoring and reporting the fulfillment of the requirements under the Law on National Regulatory Authority (article 15);
- In order to be more effective and fear, the amount of the penalty for license-holders for non-compliance with the licensing terms and conditions should be specific for each case considering the damage caused by non-compliance.

¹¹ Energy Governance in Georgia – Report On compliance with the Energy Community Acqies – Energy Community Secretariat, July 2017