

**38<sup>th</sup> ACER Board of Regulators meetings**

**Wednesday, 11 June 2014, 11.30-16.00**

**ACER, Trg Republike 3, 1000 Ljubljana**

**Minutes final**

**Participants**

Member States	Name <sup>1</sup>	Member States	Name
Austria (E-Control)	A: Dietmar Preinstorfer O: Zsuzsanna Szeles O: Silke Ebnet	Italy (AEEGSI)	M: Valeria Termini A: Clara Poletti
Belgium (CREG)	M: Marie-Pierre Fauconnier A: Koen Locquet O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (SEWRC)	Excused	Lithuania (NCC)	Excused
Croatia (HERA)	M: Tomislav Jureković	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	O: Maria-Eleni Delenta	Malta (MRA)	A: Anthony Rizzo
Czech Republic (ERO)	O: Miroslav Belica	Netherlands (ACM)	O: Geert Moelker
Denmark (DERA)	O: Mads Lyndrup	Poland (URE)	A: Halina Bownik-Trymucha
Estonia (ECA)	A: Külli Haab	Portugal (ERSE)	O: Jorge Esteves
Finland (EV)	A: Riku Huttunen	Romania (ANRE)	Excused
France (CRE)	A: Philippe Raillon O: Patricia de Suzzoni O: Michel Thiollière	Slovakia (RONI)	Excused
Germany (BNetzA)	A: Annegret Groebel O: Daniel Müether	Slovenia (AGEN-RS)	A: Jasna Blejc
Greece (RAE)	O: Vassileios Panousopoulos	Spain (CNMC)	A: Esther Espeja
Hungary (HEA)	A: Attila Nyikos O: Szonja Rajkai	Sweden (EI)	M: Anne Vadasz Nilsson
Ireland (CER)	A: Garrett Blaney	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) O: Mark Copley O: Feodora von Franz

<sup>1</sup> M: Member – A: Alternate – O: Observer

Observers	Name
ACER	Alberto Pototschnig, Dennis Hesseling, Fay Geitona, Christophe Gence-Creux, Sarah Bradbury
European Commission	Oliver Koch, Andras Hujber
CEER	Natalie Mccoy, David Halldearn

<b>Main conclusions from the meeting:</b>
<i>1. The BoR received an update on the recent Security of Supply Communication strategy as well as the timing for the preparation of the EC's Communications on the Internal Energy Market and Retail Markets.</i>
<i>2. The BoR received an update on the 2015 ACER WP preparation, the 2015 ACER budget, ACER Annual Conference and ACER AWGs' Leaders Away Day.</i>
<i>3. The BoR discussed the next steps on the Bridge 2025 Conclusions Paper, the initial feedback on the Green paper, and key issues regarding electricity and gas, and received an update of the first discussion of the Governance Group on governance issues.</i>
<i>4. The BoR provided by consensus (of the BoR members present or represented) its favourable opinion on the draft ACER Opinion on the ENTSO-E Annual Report 2013.</i>
<i>5. The BoR received an update on the EC's Implementing Acts, TRUM consultation and overall REMIT implementation.</i>
<i>6. The BoR provided by consensus (of the members present or represented) its favourable opinion on the ACER Opinion on the ENTSOG Summer Supply Outlook.</i>
<i>7. The BoR provided by majority (of its members present or represented – with a disagreement of BNetzA) its favourable opinion on the ACER Recommendation on Incentives for Projects of Common Interest and a Common Methodology for Risk Evaluation.</i>
<i>8. Members agreed to use an electronic procedure for the BoR opinion on the ACER Opinion on Monitoring the Implementation of the Electricity Community-Wide Network Development Plan.</i>
<i>9. The members received an update on the preparation of the third edition of the Market Monitoring Report.</i>

## **Part A: Items for discussion and/or decision**

### **1. Opening**

#### **1.1. Approval of the agenda**

**BoR Decision agreed: (D 1)**

*The agenda was approved.*

1.2. Approval of the minutes of the 37<sup>th</sup> BoR meeting

BoR Decision agreed: (D 2)

*The 37<sup>th</sup> BoR minutes were approved.*

**2. Update from the Commission and the Director**

2.1. Update on recent developments

**- EC**

Mr Koch reported on the EC's Communication on Security of Supply, published on 28 May, and their recent efforts to address energy security concerns as well as the Ukraine crisis. Part of these efforts includes reaching out to the Energy Community and working more closely with them to implement the Energy acquis. The EC is also considering a coordinated reassessment of risk assessments and emergency plans as well as stress tests. The EC confirmed that stress tests would look into different countries that would be affected, including Ukraine.

Regarding the preparation of the report for the ACER evaluation under Article 16 of the ACER Regulation, Mr Koch invited those members who have not responded to the requests for interviews by PWC to do so. The final report from PWC is due in July.

Mr Koch informed the members that a key deliverable, the Internal Energy Market Communication was first considered for June but is now expected in September after the summer break (along with the Retail Markets Communication).

**- ACER**

The ACER Director provided an update on recent ACER activities including in relation to the TEN-E Regulation, REMIT, MMR, staffing and establishment plan. On staffing, ACER has requested 41 additional positions to implement the TEN-E Regulation and REMIT effectively, and this has been reflected in the draft ACER budget for 2015, but it is unlikely that ACER will be given additional resources. Current staff includes 71 in the ACER office of 24 nationalities, with 1 vacancy which members are encouraged to advertise back in their Authorities. The Agency also has a number of SNEs, including two cost-free SNEs (from GB and SI) of which ACER can accept in unlimited number.

A call was put out for NRAs to offer further such resources.

Mr Nyikos stated he was committed to exploring the possibility of cost-free secondments to ACER. Mr Raillon highlighted that NRAs are under-resourced. The ACER BoR Chair highlighted to the Commission the situation of staffing constraints and that NRAs resources were also finite.

The EC responded that indeed they are unable to come with good news on budget given the overall crisis, though suggested that innovative approaches, including secondments, could provide significant opportunities to add expertise. It was highlighted that it is important for the Agency to work intelligently. The EC mentioned they have a very good 3-5 months traineeship (however with trainees being paid by their employers). The Director explained that there was also a call for applicants for next year's ACER traineeship programme. This is a programme launched by ACER in summer 2013 in two semi-annual cycles, for 4 trainees, 2 for each cycle, open to graduates, of 5-6 months in length, and pays a nominal 500 euros per month so as not to limit the geographical area from which applications would be received.

Lord Mogg noted that currently Ofgem graduate trainees are seconded for 3 months to CEER which reinforces the CEER Secretariat. It was asked whether this could extend to the Agency in LJU in order to reinforce numbers.

Since the May BoR, the Director wrote to members requesting they provide: a CV and the duly signed Declarations of Interests for the BoR member and the alternate by the end of May. The EP, in its Resolution of 3 April 2014 with observations forming an integral part of its Decision on discharge in respect of the implementation of the budget of ACER for the financial year 2012, observed that the CVs and Declarations of Interests of the BoR's members, the Director, senior management and the experts participating in the Agency's expert groups, as well as the CVs of the Administrative Board and Board of Appeal's members, are not publicly available and called on the Agency to remedy the situation as a matter of urgency. It is also being explored whether this should also be applied to the Agency WG members, though noting the resource intensity of this option where this would cover around 200 people.

The Director informed the BoR that only 35 Declarations of Interest have been received so far. CVs provided did not need to be in a standard format and could be relatively short (half a page summary would be sufficient). Declarations of Interests did not necessarily have to provide information regarding NRA and/or CEER activities but should cover close members of the family, though with a focus on partners and ensuring a perception of transparency. The EP itself is not disclosing partners' interests. ACER is also now revising its policy and guidance on conflicts of interest.

On REMIT, the expected date for the EC's Implementing Acts is now delayed to October/November so data reporting and monitoring is expected to commence in April 2015. From next week, the first group of NRAs should be able to access the European register. Though some issues were yet to be fully sorted out, it was hoped service levels would meet mutual expectations. On the Memorandum of Understanding (MoU) and the Service Level Agreement some NRAs will sign in the margins of the BoR meeting. Other MoUs have been entered into with market places and trading venues. The MoU with FERC shall soon be signed.

**OTHER ACER UPDATES:**

ACER published on 26 May a recommendation for the adoption of the Network Code on Forward Capacity Allocation for Electricity (FCA).

Stakeholder workshops were held on the Gas Target Model on 15th May in Brussels and the Network Code on High Voltage Direct Current Connections 19th May in Ljubljana. A joint workshop with CEER on Communication and Coordination was held on 23rd May.

A closed workshop on the Bridge consultation was held on 5th June.

The ACER conference was held on 10th June which was a success despite the European Commissioner needing to be replaced at the last moment. The event was well attended by over 150 people and participants were engaged, with some interesting and lively panel discussion. The input from FERC was particularly pertinent.

### **3. ACER cross-sectoral activities**

#### **3.1. Update on 2015 ACER work programme**

The Director provided an update. The Framework Guidelines on Rules for Trading is still listed (in the WP outcome) but will not be included in the final ACER WP as ACER decided that such rules should not be addressed through new FGs, but possibly through amendments to existing NCs. The ACER Director has informed the EC accordingly.

The 2015 WP outline was presented to the EWP of the Council on 26 May with an update on ACER current and 2015 activities, including on REMIT, while underlining ACER resources constraints. The presentation-discussion lasted one hour and a half in a very friendly atmosphere, including a warm welcome and introduction by the Greek Presidency. A detailed note was circulated.

There was also a presentation of the 2015 WP outline on 4 June in Ljubljana. It was attended only online by 27 stakeholders and no questions were raised. A “mini consultation” is currently being run for 2 weeks (until 18 June) for receiving stakeholders’ feedback ahead of finalising the Director’s proposal by 30 June.

#### **3.2. Update on 2015 ACER budget**

The Director provided an update on what would happen in different budgetary scenarios. Next year, activities will move into the operational stage for REMIT, with the reporting obligation coming into force. At that point, the activities of the Agency will not only require funds for licences and maintenance of the systems, but also expert staff. Accordingly ACER estimate of expenditure (in the draft budget 2015) was based on 30 additional staff in order to operate REMIT, which is comparable to the workforce at Agencies conducting similar activities in other markets such as FERC in the US and FCA in the UK in the financial market. The level of recovered unjust profits from market-manipulation cases run by FERC demonstrates this to be a good investment in terms of savings for consumers. However, the EC’s draft budget, adopted on the day of the BoR, did not include the 30 additional staff requested. It was highlighted that the implications of this needed to be considered and that they shouldn’t be underestimated. For instance, as of April the Agency will start receiving data on trade with an expectation for hundreds of thousands of data points to be received every day. Their system will first conduct an automatic screening based on a number of alerts. The number of anomalous events will depend on how the system will be calibrated. If there are not experts available to conduct analysis of the data, the system may be calibrated to pick up only the most obvious anomalies and the Agency will simply have to send all cases to NRAs without any prior analysis. This situation is not optimal and uncomfortable for both the Agency and NRAs but will face us at some point.

The Director noted that DG ENER has been extremely supportive in securing the resources for ACER and he is grateful.

#### **3.3. ACER away day**

The AWG Leaders Away Day is to be held from the afternoon of 11<sup>th</sup> after the BoR until the afternoon of 12<sup>th</sup> June in Bled. It will involve all colleagues who have a leading role in the Agency’s Working Groups, Work streams and Task Forces, with 40 to attend, and be moderated by Philip Lowe. There has been a drive to organise such an event for some time. A very good report from the Commission’s internal audit service will be discussed and has been circulated to participants of the Away Day to discuss the lessons learned (but it will

remain confidential). The Director will report on the outcome of the initiative at the next meeting.

### 3.4. BoR Roadmap

Ms Geitona referred to the circulated document for detailed information.

## 4. **Post 2014 strategy**

### 4.1. “Energy Regulation: A Bridge to 2025” – Feedback from public consultation – key issues

The Green Paper consultation was launched on 29 April and will close on 16 June. At the last ad-hoc group on 5 June the next steps for the preparation of the conclusions paper were discussed. The ad-hoc group discussed the scope and format of the paper, overall objectives and concrete actions.

There will be two documents: an evaluation of responses received during the public consultation and a conclusions paper. An updated timeline for the conclusions paper has been circulated which also highlights new dates for the ad-hoc group and main EU initiatives: the process envisages that the AWG chairs will develop initial proposals for deliverables by 2nd July. For the ACER WP, the Director raised the timing and budget constraints: given that the WP proposal by the Director needs to be finalised by the end of June, we need to have an indication by mid-June. An initial draft of the conclusions paper based on the AWG proposals will be ready in time for discussion at the 16/17 July GA/BoR. Final drafting would happen over the summer break for approval at the 17 September BoR.

Ms Geitona reported that a significant number of responses have already been received (ahead of the deadline on 16 June). All responses will be sent to the WGs chairs.

A closed workshop was held on 5 June, to which the main European Associations have been invited which was successful and interactive. A note on its highlights was uploaded in the BoR meeting folder. Stakeholders in broad terms welcomed their involvement, the interactiveness and the open discussion at the workshop.

Mr Moelker noted the top AEWG priorities from the electricity perspective and top priorities regarding other sections of the Bridge (e.g. retail barriers, DSO role, demand response, etc.) on the basis of responses received from a number of AEWG members. High priorities highlighted were the need to implement the Electricity Target Model and the 3<sup>rd</sup> Package, Network Codes and the development and improvement of the common European Balancing Target Model defined in the Network Code. Top priorities on other sections of the Bridge is the review of the process for the development, modification and enforcement of network codes to ensure that it is effective; the assessment of the appropriate level of regulatory oversight for power exchanges and other market coupling operators, and trading and capacity allocation platforms; the appropriate governance arrangements for the ENTSOs and of the need for an appropriate regulatory framework for RSCIs.

These had not been discussed at the AEWG yet but would be in July. The AEWG recommendations are to be provided at the next BoR.

Ms Zseles presented the gas topics for the Bridge. Four key areas were highlighted: the first, a generic roadmap for market enhancement and integration (including developing a process for evaluation and measures to increase liquidity; hub design and harmonisation; market

integration; and a targeted regional approach); the second relates to enhancing upstream competition; the third to new usage of natural gas and the fourth concerns the role of gas in complementing renewable electricity generation. She also highlighted that the Gas Target Model was to be published in line with the timing of the Bridge conclusions paper.

Ms Termini reported on the most controversial points from the DSO discussions.

- Activities of DSOs (perimeter of DSO role) – transparency and clear boundaries were agreed by all. The definition of the boundaries is a point of debate. DSOs did not feel there was a need for changes, while consumers asked for more competition and distinction of DSO role. For example, consumers supported more DSO efficiency and reviewing the de minimis rule on unbundling.
- Ancillary services and flexibility – agreement that in principle DSOs should not participate, except in exceptional cases linked to network constraints. In which case, this should be very clearly stated and coordinated with the TSO. Only one actor should be responsible for balancing – but presence of RES at low voltage raises issues.
- Tariff regulation – there was consensus on the need for including capacity in tariffs, perhaps as a hybrid with volume. Also, beware overly complex tariffs for consumers (e.g. dynamic tariffs), which may not contribute to consumer behavioural changes.
- Price control and incentives for investment – smart meters are crucial for innovation and new services. However, investments by DSOs should be ‘smart’ and efficient. DSOs call for abandoning cost cutting regulation and increasing cost recovery. Consumers feel both can be achieved – cutting costs and investments.

Other open questions include whether the role of demand-side response (particularly for households) is being overestimated. We should consider business consumers and include commercial rules for demand aggregation. Also, the role of DSOs in facilitating the market should be explored.

## **Market Monitoring**

### **5. Market Integrity and Transparency**

#### **5.1. REMIT implementation**

Mr Zuleger gave a presentation on progress including policy implementation and the hierarchy of REMIT rules: the 2<sup>nd</sup> level referring to the adoption of the Implementing Acts; the third level including policy documents on: (i) Requirements for the registration of reporting entities (RRMs) (providing an explanation of the registration process and the list of requirements). The RRM requirements for the submission of data will be published in parallel to the adoption of the IAs; (ii) the Trade Reporting User Manual (providing an explanation of the details of reportable trade data, including both supply and transportation contracts, examples of how to report different trading scenarios). ACER intends to publish a first release of the TRUM in parallel to the adoption of the Implementing Acts; (iii) the Manual of Procedures on Fundamental Data Reporting (explaining the details of the reportable fundamental data and the electronic formats; the technical Specifications on data security, interfaces and processes for the submission of data).

He reported on REMIT IT implementation: he noted the ongoing development of CEREMP and ARIS and timeline for going live (CEREMP 16 June 2014 to go live for NRAs and the go live for market participants will be probably in parallel with the adoption of the EC’s Implementing Acts). Regarding the timeline for CEREMP, relevant requirements include the

signing of the Service Level Agreement, the VPN access and the digital certificates for the identification of the process – ACER could also accommodate NRAs who would like to use their own certificates.

By mid-May, 9 pilot participants had provided data to the ARIS prototype (a number of participants are still in the process of submitting data).

The timeline foreseen for the updated Notification Platform is 16 June 2014. Market participants can access the updated notification forms (however, they will still have an obligation to send the current notification forms). On 1 August 2014, the updated NP goes live while the current platform is closed and the market participants will be required to use only updated notification forms. NRAs can access/receive the updated notification forms.

Regarding the development of the data sharing solution this is envisaged for Q2/2014 – Q4/2014. There will be a strong role for IT TF (“steering committee”) with NRA IT experts and requirement to engage actively.

Regarding the market monitoring activities, there are 2 closed and 6 pending cases for 2014. Mr Zuleger recalled the NRAs’ obligation to notify each suspected breach of REMIT (Article 16(2)). There are an increasing number of cases notified to ACER.

The Director informed the members that the ACER REMIT Annual Report was released yesterday in parallel with the Annual Conference.

## 5.2. Report on EC’s Implementing Acts

Mr Koch provided an update. In terms of timing: the formal Committee meeting with a vote of Member States seems to be delayed until after the summer break, which means that adoption of the Implementing Acts will realistically be for October and subsequently they will be published and, following 20 days of their publication, enter into force. Therefore, the timeline will go for around November for their entry into force which will trigger the timing for the reporting obligations to start 6 months after, expected in April – May 2016.

Mr Zuleger noted that the final input on the data fields was provided to the Commission on 16 May following roundtable meetings with stakeholders.

## 5.3. Feedback from PC on TRUM

Mr Zuleger introduced this item. The Agency developed the Trade Reporting User Manual (TRUM) and launched a public consultation on the draft TRUM on 27 March which closed on 5 May 2014. A workshop in Ljubljana was held on 3 April to discuss the consultation. In general, respondents welcomed the timely consultation and stressed the importance of the TRUM for market participants and reporting entities. Some highlighted that the draft TRUM lacked the level of detail required to provide sufficient guidance to market participants. Respondents acknowledged that the draft TRUM may differ from the final version that will be released upon the entry into force of the IAs and some requested that any subsequent change is consulted with market participants again. Respondents also provided more general comments and concerns related to the data reporting framework. ACER held roundtable meetings with three stakeholder groups in May, with a further to be held in early July followed by a public workshop in mid-July. ACER will then prepare another public consultation on a reviewed draft TRUM in July, hopefully on the basis of a final draft version of the Commission’s draft implementing acts which will aim at covering all reportable contracts under the Implementing Acts.

## **Completion of the Internal Energy Market Update on FGs and Network Codes**

### **6. Electricity**

#### **6.1. Oral update on FGs and NCs**

Mr Moelker provided an update on the overall planning and status of the codes.

#### **6.2. ACER Opinion on ENTSO-E Annual Report**

The ACER Opinion was presented by the Director. He highlighted that the ACER Opinion raises a number of issues. The focus of the ENTSO-E report is on cooperation between TSOs and the ENTSOs activities are presented in the overall context of the Internal Energy Market. However, the ACER Opinion notes that the annual report could be better balanced between exhaustiveness and readability, as some deliverables are not easily identifiable. The Opinion notes some omitted detail, including some deliverables from the main text and from the appendix. These include *inter alia* the report on the Inter-Transmission System Operator Compensation, the overview of transmission tariffs, the adequacy part of the Scenario Outlook and Adequacy Forecast 2013-2030, the winter and summer outlooks, and the yearly statistics and adequacy retrospect. The ACER opinion makes some specific suggestions on sections of text, including further elaboration on some general statements, including further information for transparency and considerations for further work. It expects these comments to be taken into account in development of ENTSO-E's 2015 WP.

#### **BoR Decision agreed: (D 3)**

*The BoR provided by consensus of the BoR members (present or represented) its favourable opinion on the draft ACER Opinion on ENTSO-E Annual Report 2013.*

#### **6.3. Report back on Florence Forum**

- Legal instrument for CACM

Mr Koch reassured members that there is no difference in substance on the adoption of CACM through Commission Guidelines (and not as a Code). Both acts (Network Codes need to be endorsed through the Comitology Committee in the same way as Commission's Guidelines) are legally binding and in both cases the Commission has the formal/legal right of initiative for their amendments. He urged members to assure stakeholders that the Comitology Guidelines remain officially binding requirements. Mr Koch informed members that the CACM Network Code will be taken forward as EC Comitology Guidelines given that it provides for delegations for future actions which do not allow it to be qualified as a Network Code. It will eventually be a legally binding Regulation. He noted that this was indicated early enough in the process. This issue is only relevant for electricity forthcoming codes and not for Network Codes already adopted in gas. Balancing will also likely take the form of a Commission's Guideline.

The ACER Director noted that whilst the EC is only mandated for tabling amendments to a Regulation in the Comitology Committee (having the right of initiative) the ACER Regulation envisages a previous process before the Comitology stage both with regard to the development of codes and their amendment process; he, therefore, sought clarifications on the input required from ACER at the stage prior to the tabling of the EC's proposal. Mr Koch indicated that the Commission, in the case of Guidelines, intends to follow a similar amendment process to the one envisaged for Network Codes in the ACER Regulation.

On the issue of delegation of decisions to all NRAs and all TSOs Lord Mogg noted that there are sensitivities how all NRAs reach agreement is also an issue and raised whether the BoR could be used as a platform.

#### 6.4. Preparation of ACER Opinion and recommendation on high-voltage direct current connections and DC-connected powerpark modules NC

The HDVC code was submitted to ACER on 30 April and a stakeholder workshop was held on 19 May. The draft ACER Recommendation and ACER Opinion were submitted for an orientation discussion at the BoR.

The draft Opinion notes that the Code complies with FGs, but some areas for improvement in drafting and consistency with other NCs which should be addressed by the EC are set out in the recommendation

It is therefore proposed to recommend the Code for adoption, subject to minor amendments to improve quality:

- Ensure consistency with RfG and DCC: definitions for new HVDC Systems and new DC-connected PPMs, national scrutiny, cost recovery, confidentiality obligations, derogations, the stakeholder committee and implementation monitoring;
- The Network Code should exclude islands, not all PPMs: alter drafting to achieve this;
- Improvements to the legal drafting and enforceability of some provisions should be undertaken;
- Removal of redundant terms: replace "Grid User" with "System User" as per Elect Directive;
- Completion of the alignment of the supporting documents.

Regarding the next steps, the project team will continue to engage with stakeholders. The ACER Opinion and Recommendation will be submitted to the AEWG 2 July and the formal opinion of the BoR will be sought on the 17 July Board of Regulators with a view of ACER issuing its Reasoned Opinion and Recommendation by 30 July 2014.

The BoR had an orientation discussion.

## 7. Gas

### 7.1. Oral update on the FG an NCs & other work

Ms Szeles provided an update in Mr. Boltz's absence.

On 10 July the first formal comitology meeting for the Interoperability Network Code will be held. The EC also will endeavour to provide to the Committee the Commission's proposal to amend the Congestion Management and Transparency Guidelines on the two timing-related "administrative" points proposed by ACER at the Madrid Forum (moving congestion report date from 1 March to 1 June and extending forward publication requirement by TSOs from 18 months to 24 months).

On 11 July an informal Member States meeting is scheduled to continue discussions on a number of issues relating both implementation of existing measures (CMP, CAM, Balancing), development of new ones (tariffs, Incremental). There will also be an ACER update of the work on the "Bridge" and "Gas Target Model" papers. The second comitology meeting on IOP will be held on 1-2 October 2014.

With regard to the RfT scoping exercise, ACER's public consultation closed on 10 May. A letter from ACER was sent to the EC on 3 June. It provides the Agency's feedback on the preliminary scoping on potential Framework Guidelines on Rules for Trading. Following a request by the EC and based on the consultation results and the expert debates, the Agency recommends not putting forward rules for trading through new Framework Guidelines /Network Code. Instead, identified issues and (regulatory) problems could be addressed directly via the implementation/amendments of the existing Network Codes and Guidelines. Currently there is no clear support by stakeholders for FGs on RfT.

On tariffs, ENTSOG's public consultation runs from 28 May–30 July, parallel with Interoperability. ACER closely follow the process. The TF/AGWG prepares the ACER preliminary opinion based on the consultation version.

Regarding balancing, the Madrid Forum conclusions invited ENTSOG and ACER to follow up the implementation by identifying potential issues, to promote the exchange of best practices at national level and to support cross-border cooperation in the relevant areas. ACER will collect national implementation plans and present to the next Forum the implementation situation. NRAs, TSOs and Member States should work towards a complete, coordinated and consistent implementation of the Balancing Network Code. ENTSOG and ACER will follow up the implementation through questionnaires to achieve early identification of potential issues; promoting the exchange of best practices at national level; supporting cross-border cooperation in areas such as harmonisation of information quality and data format, nominations, joint platforms where feasible.

On CMP, the EC is finalising an interpretative note on CMP implementation issues. The ACER congestion monitoring report was published on 28 February 2014. Regarding the ACER CMP implementation monitoring report, NRAs can access the online survey using their individual accounts. By April/May an analysis and evaluation of TSOs/NRAs responses will be held and by May/June the report on CMP implementation.

## 7.2. GTM review update

Ms Szeles reported on the latest progress. The 3rd ACER stakeholder workshop was held on 15 May 2014 with 80 participants and participation through web streaming. There has been a fruitful discussion in particular about:

- GTM 2 criteria;
- Forward market functioning;
- Enhancement of hub design and functioning;
- Market integration;
- Coordination between electricity and gas markets to remove barriers from the functioning of gas-fired power plants;
- Promoting gas in transport;
- Participants were invited to provide also written input by mid-June.

Regarding the next steps, by September/October 2014 we expect the finalisation of the GTM update on the basis of the stakeholder comments and the gas relevant responses to the "Bridge to 2025" public consultation.

### 7.3. ACER Opinion on ENTSOG Summer Supply Outlook 2014

The Director and Mr Hesseling introduced the draft ACER Opinion: ACER welcomes the publication of ENTSOG's Outlook ahead of the season, which allows for action to be taken by stakeholders. The main objectives and areas of analysis seem appropriate, and ACER welcomes the demonstration of the gas supply interruption impact, particularly regarding levels of gas supply in storage, by using modelling and sensitivity analyses. ACER notes the relevance of the analyses of levels of gas in storage and the effects of complete gas supply cut-off from Russia and inclusion of neighbouring non-EU countries but encourages a more detailed identification of seasonal risks to system flexibility and gas supply and of reasons for existence of risks. ACER encourages ENTSOG to highlight gas supply patterns as guidance on potentially problematic short-term variations. The ACER Opinion appreciates consistency in the modelling approach and assumptions for the outlooks and the TYNDP but also suggests highlighting those conclusions that are relevant and could be helpful to the development of the next TYNDP. The ACER Opinion considers the Summer Review 2013 is valuable for identifying the reasons for important changes in demand and supply patterns and encourages ENTSOG to continue to review the actual supply and transmission flow variations on a seasonal basis to enable analysis of intra-seasonal patterns and trends of gas supply. In broad terms it meets the objectives of the Regulations.

#### BoR Decision agreed: (D4)

*The BoR provided by consensus (of the members present or represented) its favourable opinion on the ACER Opinion on the ENTSOG Summer Supply Outlook 2014.*

## **8. Investment challenge**

### European Network Planning and Infrastructure Challenge

#### 8.1. ACER Recommendation on Risk Evaluation Methodologies and Incentives for Gas and Electricity Infrastructure Projects

The BoR Chair clarified that a previous version was uploaded in the BoR meeting folder well ahead of the BoR meeting with a clear indication that the annexes are subject to revision due to some updates on the information provided by NRAs. The Director's revised formal proposal reflects the latest changes by NRAs (all purely factual) in the annexes. Given the changes are related to factual information, the BoR Chair authorised the late circulation of the draft ACER Recommendation on which he sought the formal BoR opinion.

The Director introduced the revised ACER Recommendation. ACER sought to reinforce the evidence on national mitigation and therefore we issued a short questionnaire to collect more evidence (till 5 June 2014)

Ms Groebel supported by Mr Preinstorfer had concerns on the text of the introduction.

The Director stated that he reads this paragraph differently in the sense that it shows awareness by Regulators of a more relevant issue: the extent to which existing national regulatory frameworks take into account the two main features of PCIs (i.e. higher complexity due to their cross-border nature and higher expected net benefits) and are consistent with each other. The Director does not understand this sentence to promote incentives but rather to raise the issue of whether, where incentives are provided, they should be consistent across borders.

BoR Decision agreed: (D5)

*The BoR provided by majority (of the members present or represented – BNetza disagreed) its favourable opinion on the ACER Recommendation on incentives for projects of common interest and a common methodology for risk evaluation.*

8.2. Oral update on CBCA cases

The Director explained that the first request (GIPL – Gas Interconnector Poland Lithuania) was received by the Agency on 1 May. A decision is due by 31 July. There was a call for NRAs to provide for short terms experts, for which E-Control and Malta, offered experts who will work on the case.

8.3. ACER Opinion on Monitoring the Implementation of the Electricity Community-Wide Network Development Plan

The Director informed that this Opinion has been subject to some late revisions and, therefore, he withdrew his proposal for a BoR formal opinion. The BoR Chair sought the agreement of the members to use an electronic procedure for the BoR opinion.

BoR Decision agreed: (D6)

*Members agreed to use of an electronic procedure for the BoR opinion on the ACER Opinion on monitoring the implementation of the electricity community-wide network development plan.*

## **9. Implementation, Monitoring and Procedures**

9.1. Oral update on current work

The Director and Mr Locquet reported on the preparation of the 3<sup>rd</sup> edition which covers the same topics as the 2<sup>nd</sup> edition:

- . Progress in completing the IEM
- . Barriers for the functioning of IEM

There will be a single retail chapter for gas and electricity. A meeting was taking place in parallel with BEUC to strengthen the retail section on switching of the next edition of the MMR. BEUC had proposed to work together with ACER to explore why customers are not switching despite the existence of significant savings. The possibility for BEUC to second an expert to Ljubljana has also been explored. The first draft of the report is ready and ACER aims to publish the report one month early at the end of October with a presentation in Brussels/LJU. Although the Agency is not bound by a date in the European Parliament, it was suggested that exposure to the new Parliament on the MMR over and above the WP would be beneficial and we will approach the EP to seek for a date.

In terms of planning, since March there has been data collection, analysis and drafting; by mid-June a preliminary draft will be sent to NRAs for in-depth discussion. By mid-July a final draft to NRAs for last review will be sent. In September we shall start post-production process (proof reading/designing phase).