

79th ACER Board of Regulators Meeting
Wednesday, 12 December 2018
E-Control premises, Rudolfsplatz 13a, 1010 Vienna

Minutes (final)

Member States	Name ^[1]	Member States	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer O: K. Ledermann-Tappeiner O: C. Materazzi-Wagner	Italy (ARERA)	M: Clara Poletti (BoR Vice-Chair) A: Francesco Cariello O: Ilaria Galimberti
Belgium (CREG)	O: Geert Van Hauwermeiren	Latvia (PUC)	M: Rolands Irklis O: Lija Makare
Bulgaria (EWRC)	O: Svetla Todorova	Lithuania (NCC)	A: Irma Vasarytė
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić Škevin	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Andreas Poullikkas	Malta (REWS)	A: Phyllis Micallef
Czech Republic (ERO)	M: Vladimir Outrata A: Martin Sik O: Jana Haasova O: Katerina Firlová	Netherlands (ACM)	A: Remko Bos O: Wieger Wiersema
Denmark (DUR)	M: Carsten Smidt	Poland (URE)	A: Małgorzata Kozak
Estonia (ECA)	O: Marilin Tilkson	Portugal (ERSE)	A: Alexandre Santos O: Natalie McCoy
Finland (EV)	M: Simo Nurmi	Romania (ANRE)	O: Florin Tobescu
France (CRE)	A: Hélène Gassin O: Michaël Mastier O: Miyuki Tsuchiya O: AnneLise Teani	Slovakia (RONI)	A: Marian Záhora
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Greece (RAE)	A: Nektaria Karakatsani	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	O: Krisztian Toth O: Adam Krinszki	Sweden (Ei)	M: Anne Vadasz-Nilsson
Ireland (CRU)	M: Garrett Blaney (BoR Chair) A: Paul McGowan O: Seamus Byrne	United Kingdom (Ofgem)	M: Andrew Burgess A: Cathryn Scott O: Christoph Gräfe O: Jenny Pyper

[1] M: Member – A: Alternate – O: Observer

ACER	Christophe Gence-Creux, Dennis Hesseling, Volker Zuleger, Martin Godfried, Fay Geitona, Sander Ramp
European Commission	Andras Hujber

MEETING CONCLUSIONS SUMMARY

1. The minutes of the 78th BoR meeting were approved, as was the agenda for the 79th meeting.
2. No conflict of interest was declared by the participants.
3. The BoR Secretariat informed the BoR about the latest developments in the 2019 budget of the Agency as well as on the implications on the revision of the 2019 Work Programme. Following the approval of the EU Budget by the EP on 12 December, the ACER 2019 Work Programme will be modified accordingly and submitted to the BoR for approval through electronic procedure ahead of the Christmas break. The BoR agreed to the use of a short electronic procedure (two rounds) for the approval of the 2019 ACER Work Programme (by 20 December) in order to allow the subsequent AB procedure for its adoption before the end of the year.
4. Ms Geitona reported on the MMR public launch, which took place on 22 October in Brussels.
5. Ms Geitona informed the BoR of the Agency's latest publications and workshops.
6. Ms Geitona and the AEWG Vice-Chair informed the BoR about the trilateral meeting with the EC, ACER and ENTSOs on improvements in the preparation of the EU TYNDP and the 4th PCI list. The participants agreed to establish a High Level Group similar to the IMG NC Group.
7. The members were informed about a new system to be implemented, which entails pop-up notifications on the ACER website inviting members and participants in the BoR to take note of and to commit to compliance with the respective rules of procedure.
8. The EC provided an update on the negotiations on the European Commission proposal: "Clean Energy for all Europeans". The last trilogue on the ACER Regulation on 11 December was decisive and reached a provisional agreement. The trilogue on the Electricity Directive and Regulation on 5 December was not conclusive and thus it will need to be pursued on 18 December.
9. The BoR Chair informed the BoR of the mid-term review of declarations of interest which was held in line with the Agency's conflict of interest policy. Following the assessment of the information provided, the Panel did not identify any conflicts of interest and concluded that no action by the Agency or the BoR was required.
10. The BoR Chair and the BoR Secretary presented the process for the election of the BoR Chair which replicates the process agreed. Expressions of interest for the BoR Chair's position will be opened on 13 December 2018, with a closing date of 7 January 2019 COB. The elections will be held at the 80th BoR meeting on 23 January 2019 in Brussels. **The BoR agreed the process.**
11. Mr Gence-Creux presented the draft ACER Opinion on the Incidents Classification Scale Methodology. **The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.**
12. Mr Gence-Creux presented the draft ACER Opinion on the implementation of the EU electricity TYNDP, including several of the findings and recommendations. **The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.**

13. Mr Gence-Creux presented the draft ACER Opinion on ENTSO-E's Work Programme 2019. **The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.**
14. Mr Hesseling presented the draft ACER Opinion on the implementation of the EU gas TYNDP and the key findings and recommendations. **The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion subject to the inclusion of the above project.**
15. Mr Hesseling presented the draft ACER Opinion on ENTSOG's Winter Supply Outlook 2018/2019. **The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.**
16. Mr Hesseling presented the draft Opinion on the ENTSOG's Work Programme 2019. **The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.**
17. The AEWG Chair provided an update on the ongoing work in the AEWG.
18. Mr Gence-Creux informed the BoR on the progress in the preparation of the ACER Decision on the Core Capacity Calculation Methodology. The BoR had an orientation debate on the key issues presented. AEWG endorsement and BoR opinion are foreseen for February 2019 through electronic procedure.
19. The BoR was informed on the initiative of the DE-AT-PL-4M MC NRAs for the initiation of an interim project to merge MRC and 4M MC.
20. Mr Gence-Creux informed the BoR on the progress in the preparation of the ACER Decision on intraday cross-zonal capacity pricing methodology which was referred to the Agency on 24 July. He presented some of the main amendments under discussion and members had an orientation discussion. AEWG endorsement and BoR opinion are foreseen for January 2019.
21. Mr Gence-Creux informed the BoR on the progress on the ACER Decision on the CCR amendment. The issue was referred to the Agency on 4 October. Mr Gence-Creux set out the agreed compromise. ACM and DERA can support the compromise. The next steps include an endorsement in the AEWG and, subsequently, the BoR opinion is foreseen for March 2019.
22. Mr Gence-Creux informed the BoR on the progress on the ACER Implementation Monitoring Report on CACM and FCA. Beyond the issue of legal compliance, this report assesses eventual difficulties faced in implementing policies. It provides conclusions and recommendations across the EU. The Report was presented to the BoR for information and is under Director's review.
23. The AEWG Chair introduced the discussion on enhancing the role of the NRAs in the network codes' development process, the role of the BoR and its potential guidance to the AEWG and TFs at an early stage. He proposed orientation discussions on key issues ahead of their agreement on the basis of briefings from the AEWG. Members supported this proposal.
24. The AGWG Chair and Mr Hesseling provided an update on the ongoing work in the AGWG and the Agency.
25. Mr Godfried provided a presentation the Alert Dashboard project, to inform BoR members on alert statistics to better identify surveillance priorities and resource allocation. The update will be henceforth provided on an annual basis.
26. Mr Zuleger provided an update on the ongoing REMIT policy work on improving transparency regarding disclosure of inside information, energy commodity derivatives paper and a potential revision of the REMIT framework.

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| 27. | BNetzA presented the draft “Guideline on Abuse Control under Competition Law and Wholesale Energy Market Law in the Power Generation Sector” (“the Paper”) about price spikes and their admissibility which is soon to be launched for public consultation. |
| 28. | The members were informed on the documents of common interest circulated under Part B of the agenda and the EU Corner. |
| 29. | The BoR held the second pre-Summit discussion. |

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. The agenda was approved with the addition of one item on the BNetzA Guidance on market abuse. No conflict of interest was declared.

1.2. Approval of the minutes of the 78th BoR meeting

BoR Decision agreed: (D 2)

The minutes of the 78th BoR were approved.

2. Updates from the Director, EC, and BoR Chair

2.1. Update from ACER

➤ ACER Budget 2019 and next steps on the 2019 WP

Ms Geitona informed the BoR that the Institutions did not reach an agreement on the EU 2019 Budget by the end of the reconciliation period on 19 November. The Commission submitted a revised proposal for a draft budget on 30 November, which reflects their original proposal with regard to the ACER budget (15.853.496€ and 67 temporary posts). The trilogue on 4 December reached a provisional agreement. Following the Council’s adoption of the 2019 EU Budget on 7 December, its adoption by the EP is expected on 12 December. The 2019 ACER Work programme (WP) will thus need to be revised and approved by the BoR through electronic procedure. It is proposed to have two short rounds (by 20 December) in order to allow time for the subsequent AB procedure for its adoption before the end of the year. In addition, in January the BoR will be informed about the SPD 2020-2022. The BoR agreed to use the electronic procedure for the approval of the revised Work Programme.

➤ Report on the MMR public launch on 22 October

Ms Geitona reported on the public launch event on 22 October which was attended by around 70 participants and there were at least 76 followers through web streaming. The Austrian Presidency was not represented. The EC (DG Justice and DG ENER) was represented by Marie-Paule Benassi and Oliver Koch respectively.

➤ New system for ACER website notifications for BoR

At the last BoR, members were informed about a new system soon to be implemented which would entail pop-up notifications on the ACER website inviting members and participants in the AWGs, TFs, and REMIT CG and subgroups, to take note of and to commit to compliance with the respective rules of procedure. For the AWGs groups this has entered into force on 19 November. Access to the dedicated meeting pages is now subject to the acceptance of the abovementioned notification by the users. Subsequently, this will also be implemented and apply with regard to the BoR; members will be informed about the date for its kick off.

➤ Latest publications

Ms Geitona informed about the latest ACER publications:

- On 4 December, ACER organised a workshop in Brussels on the conditionalities stipulated in contracts for standard, firm gas capacity products.
- On 30 November, ACER issued an infloflash that CNMC has fined Multienergía Verde, S.L.U. 120,000€ and Galp Gas Natural, S.A. with EUR 80,000€ for engaging in market manipulation in the natural gas market. CNMC decided that from 15 to 20 January 2017, Multienergía Verde, S.L.U. secured, or attempted to secure, the price of several natural gas wholesale products for delivery in Spain, traded at the organised gas market, at an artificial level.
- On 20 November, ACER informed that it will have to take a decision on the incremental capacity project proposal for the Mosonmagyaróvár gas interconnection point (HUAT project), which connects the markets of Austria and Hungary.
- On 14 November, ACER published its Report on the implementation of the Network Code on Harmonised Transmission Tariff Structures for Gas in Romania.
- On 31 October, ACER released its report on the implementation of the Inter- Operator Compensation (ITC) mechanism in 2017.
- On 31 October, ACER published an Opinion reviewing the most recently published national gas network development plans (NDPs) in view of assessing their consistency with the EU TYNDP issued by the European Network of Transmission System Operators for gas (ENTSOG).
- On 30 October, ACER published its Report on the methodologies and parameters used to determine the revenues of gas Transmission System Operators (TSOs).
- On 24 October, ACER published its third Report on the implementation of the Network Code on Harmonised Transmission Tariff Structures for Gas.
- On 23 October, the latest issue of the Agency's REMIT Quarterly has been published on the REMIT Portal.
- On 22 October, the ACER Annual Report on the Results of Monitoring the Internal Electricity and Natural Gas Markets was presented with a press release. On the same day ACER released the wholesale Electricity Wholesale Volume, the Consumer Protection and Empowerment Volume and the full version of the retail markets volume.
- On 16 October, ACER published its decision on the capacity booking platform for gas to be used on the border between Germany and Poland establishing GSA as the booking platform to be used at Mallnow interconnection point (IP) and the 'GCP' virtual interconnection point (VIP) on both sides of the German-Polish border.
- On 16 October, ACER published its summary Report on practices in the application of project-specific risk-based incentives on the basis of the EU Regulation on guidelines for trans-European energy infrastructure.

Ms Geitona and the AEWG Vice-Chair informed the BoR about the trilateral meeting on 27 November with the EC, ACER and ENTSOs on improvements in the preparation of the EU TYNDP and the 4th PCI list. The participants agreed to establish a High Level Group similar to the IMG NC Group. This Group

will look into those issues at a more strategic level and will be composed by the same parties as the IMG NC. It will aim to discuss improvements for the 2020 TYNDP process. The High Level Group would be organised on an *ad-hoc* basis. The technical workshop on 12 December (under the cover of the ACER INF TF) will discuss issues such as the process for the TYNDP and the PCI lists and may perhaps compile a set of strategic questions to be further explored at the first meeting of the Group which is expected in February. The need was, therefore, acknowledged by the meeting participants to work on a central scenario that delivers the 2030 objectives based on the draft national energy and climate plans and to consider some variations around this central scenario.

2.2. European Commission

➤ Update on Clean Energy Package proposals, Gas Directive amendments

The EC informed about the latest discussions on the CEP. The trilogue on the Electricity Regulation and Directive recast on 5 December has not reached an agreement and the next one is set on 18 December. It seems that there was a provisional agreement on the ACER Regulation recast at the trilogue of 11 December.

The political agreement on the proposal for Regulation on the Risk preparedness in the electricity sector was reached by the European Parliament and the Council on 22 November 2018.

The BoR Chair invited the EC to provide an update on the selection of the new Director.

➤ Report on the Madrid Forum

The conclusions were circulated.

2.3. BoR Chair

➤ Conflict of Interest policy: mid-term review of Declarations of Interest – Note for info

The BoR Chair informed the BoR that following the initial review in March 2018 to assess the declarations and CVs provided of the BoR, WGs and TFs chairs & convenors, a mid-term review of declarations of interest submitted throughout 2018 took place on 17 October 2018. Following the assessment of the information provided, the Panel did not identify any conflicts of interest and concluded that no action by the Agency or the BoR was required. In accordance with the policy adopted by the Administrative Board, all declarations and CVs are now published on the ACER website.

3. **Items for BoR opinion, endorsement or agreement**

3.1. Process for the election of the BoR Chair

The BoR Chair and the BoR Secretary presented the process which replicated the previously agreed process. The BoR Chair recently announced that he will resign as Commissioner at the CRU and move to a new role as Chair of the Irish communications regulator ComReg in January 2019. Therefore, the position of the BoR Chair falls vacant as of 24 December. The elections will be held at the 80th BoR meeting on 23 January 2019 in Brussels on the basis of the agreed process. Pursuant to the BoR rules of procedure, the Vice Chair shall take the place of the Chair until a new Chair is elected. Expressions of interest for the BoR Chair's position will be opened on 13 December 2018, with a closing date of 7 January 2019. The BoR will meet in "huis clos" for the elections.

The BoR thanked Mr Blaney for his contribution as the BoR Chair.

3.2. ACER Opinion on Incidents Classification Scale (ICS) Methodology

Mr Gence-Creux informed the BoR on the Agency's Opinion on the Incidents Classification Scale Methodology. Pursuant to Regulation 714/2009 Articles 8(3) and 9(2). The Opinion results from an update of the current ICS through which ENTSO-E intended to bring the ICS in line with the System Operation (SO) Guideline (GL).

Mr Gence-Creux informed the BoR that the Agency did not identify such elements in the ICS 2018 that would suggest that it has negative effects on non-discrimination and effective competition. However, in the Agency's view, the ICS 2018 raises concerns as regards its compliance with the SO GL and, therefore, also with the objective of an efficient and secure functioning of the internal market in electricity. In addition, parts of the ICS 2018 lack clarity.

The Agency, therefore, invites ENTSO-E to revise the ICS 2018 and to resubmit the revised document for an Agency's opinion, within six months following the date of this Opinion. The Agency included in this Opinion recommendations how to improve the ICS 2018 and encourages ENTSO-E to keep a close cooperation with the Agency at working level during the period prior to the resubmission of the revised ICS 2018. Given that the ICS 2018 implements the provisions of the System Operation Guideline, the involvement of the European Commission seems also advisable.

The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.

3.3. ACER Opinion on implementation of the EU electricity TYNDP

Mr Gence-Creux presented the draft Agency's opinion on the implementation of the EU electricity TYNDP. Articles 6(7) and 6(8) of Regulation (EC) No 713/2009 task the Agency with monitoring the progress as regards the implementation of investments to create new interconnection capacity and the implementation of the electricity Union-wide TYNDP.

Mr Gence-Creux set out the main findings of the Opinion including *inter alia*:

1. About half of the national investments progress on time, while about 20% of investments are "delayed" while needed, and 20% of investments are rescheduled by the promoter.
2. National investments 'under consideration' are much more exposed to rescheduling and therefore their implementation, in particular by the scheduled date, is in general less reliable than for more advanced investments.
3. The Agency recalls its recommendations to ENTSO-E to provide a better visibility of the significantly different level of uncertainty attached the evolution and implementation of these investments by separating the projects including a national investment under consideration from the more advanced ones (i.e. by two separate Appendixes) in the EU TYNDP. Such projects should not be included in reference grids used for the benefit assessment or needs identification process as it would decrease the robustness of the results.
4. A number of interconnection investments have a different status under the corresponding national jurisdictions.
5. Several interconnection investments have different commissioning dates in the corresponding NDPs.

6. The Agency recommends TSOs (project promoters) and NRAs to jointly review the interconnection investments with different status and/or expected commissioning date in the hosting jurisdictions in order to better align their respective planning and implementation plans, if appropriate.

The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.

3.4. ACER Opinion on ENTSO-E's Work Programme 2019

Mr Gence-Creux presented the Agency's Opinion on the ENTSO-E Work Programme 2019. The Annual Work Programme covers the period from September 2018 to the end of 2019. The ACER opinion finds that the informative value of the Work Programme 2019 could be further enhanced by focusing the text even more on concrete projects and deliverables, compared to past and present activities.

The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.

3.5. ACER Opinion the implementation of the EU gas TYNDP

Mr Hesseling presented the Agency's Opinion on the implementation of the EU gas TYNDP in line with Article 6 of Regulation (EC) No 713/2009 and Article 9 of Regulation (EC) No 715/2009. The Opinion reviews the implementation of investments in natural gas infrastructure in the EU TYNDP, as reported by NRAs.

Mr Hesseling presented some of the main conclusions and recommendations of the Opinion and indicated that there is a need for a careful assessment of the needs for additional gas infrastructure in Europe. Only infrastructure projects that serve well-defined needs, which cannot be resolved by means other than additional infrastructure, should go ahead.

CERA's representative indicated that one PCI is not included in the Opinion (LNG 1146, Cyprus). Mr Hesseling indicated that the PCI in question had been included in all the statistics of the report, but was not yet included in the Annex.

The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion, subject to the inclusion of the abovementioned PCI.

3.6. ACER Opinion on ENTSOG's Winter Supply Outlook

Mr Hesseling informed the BoR of the Agency's Opinion. The Agency finds that the Winter Supply Outlook 2018/2019 meets the objectives of Regulation (EC) No 713/2009 and No 715/2009 and welcomes its publication by ENTSOG in due time, ahead of the winter season. The Agency positively notes several improvements to the report and welcomes several aspects of the report, such as the analysis of gas supply and demand trends and the expected evolution of storage levels. The Agency at the same time also urges ENTSOG to include some further improvements and justifications.

The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.

3.7. ACER Opinion on ENTSOG's Work Programme 2019

Mr Hesseling presented the Agency's Opinion on ENTSOGs Work Programme 2019 which covers the general scope of the Work Programme, the Work Programme's focus on the NCs and GLs, functionality process, scenarios, infrastructure and security of supply, and transparency requirements.

The Agency finds the content of ENTSOGs final draft 2019 Work Programme appropriate and welcomes the classification of the main tasks by work area and the clear setting of objectives, key deliverables and work schedules in each main area of activity. The final draft Work Programme 2019 is consistent with ENTSOG's tasks as described in Article 8 of Regulation (EC) No 715/2009 and the Three-Year Plan of July 2015. A possible improvement of the annual work programmes could include the stronger highlighting of critically important work areas and deliverables. The Agency notes that the final draft Work Programme 2019 indicates key deliverables for 2019, but generally does not indicate whether there are specific risks of not achieving the various objectives, tasks and deliverables.

The BoR provided, by consensus of the members present or represented, its favourable opinion on the ACER Opinion.

4. Electricity

4.1. Important AEWG updates

The AEWG Chair provided an update on the ongoing work in the AEWG, which last met on 21 November. At the last AEWG meeting it was proposed to organise the FCA TF and the CACM TF alongside each other and to appoint the current CACM TF convenors also as FCA TF convenors. Also, the EC has established a high-level group on NEMOs governance, which consists of the EC, ACER, NRAs and NEMOs. The next meeting is on 10 January 2019.

4.2. ACER Decision on Core Capacity Calculation Methodology

Mr Gence-Creux presented the draft ACER decision on the Capacity Calculation Methodology for the Core region. The Decision was referred to the Agency on 24 July. Discussion on consultation issues and amendments with Core NRAs took place in September and October and technical meetings were held in October with Core TSOs and NRAs. The Agency proposed its general way forward on 1 November and held a subsequent workshop on 8 November. Amendments will be finalised in December and AEWG endorsement and BoR opinion are foreseen for February 2019. The deadline for the Agency to adopt a Decision is 21 February.

The BoR had an orientation debate on the key issues. The main amendments are on; the selection of critical network elements; definition of minimum capacity to avoid undue discrimination; and capacity validation (two steps). Other amendments encompass: reliability margins; generation shift key; transparency requirements, offered capacity at Intraday Cross-Zonal Gate Opening Times and the implementation timeline. There are several final open issues, such as; the need to address limitation of loop flows in capacity calculation; the optimisation of remedial actions; and the implementation of advanced hybrid coupling and solution for transit flows.

With regard to transparency, Mr Gencre-Creux mentioned that there is a long list of transparency requirements and feedback is expected from stakeholders. The lack of transparency on the flow based Capacity Calculation Methodology is an often-heard complaint. Mr Gence-Creux further emphasised the

importance of the implementation timeline. The fixed, legally enforceable, timeline is April 2020. This is relevant in relation to the interim project of an NTC-based market coupling between DE, AT, PL, and 4M MC. A compromise needs to be found. The high-level principles of the ACER Recommendation (02/2016) also need implemented. And the CEP developments need to be taken into account.

The draft Decision will be discussed next at the next BoR meeting on 23 January 2019.

DE-AT-PL-4M MC NRAs information on the initiation of an interim project to merge MRC and 4M MC

The Chair mentioned that relevant information on this initiative of the DE-AT-PL-4M MC NRAs for the initiation of an interim project to merge MRC and 4M MC was communicated on 1 December to the European Commission, the Agency and all Core NRAs. The idea is to merge the two PCR-based market coupling – MRC and 4M MC – independently of and prior to the implementation of the Core Flow Based capacity calculation/Core Flow Based Market Coupling (Core FBMC).

Mr Gence-Creux explained that this agenda item was included in the agenda because the Agency was asked to take position on the project. This lies with the NRAs of the region to introduce this interim step. But due to the potential impact on the Core flow based methodology we need to ensure that we do not delay the implementation of the flow based methodology. If the concerned NRAs can commit to the flow based EU project and to cover the costs of the interim project, the Agency will support the interim project.

4.3. ACER Decision on intraday cross-zonal capacity pricing methodology

Mr Gence-Creux presented the key issues from the draft ACER Decision on the intraday cross-zonal capacity pricing methodology. The Decision was referred to the Agency on 24 July; a public consultation was held in October; discussions on the implementation and governance and IDCZCP design took place in November. Discussions on amendment proposals will continue in December. Finally, AEWG endorsement and the BoR opinion are foreseen for January 2019.

The IDCZCP methodology is considered an addition to the ‘common set of requirements for efficient capacity allocation’ (Article 37(1) CACM). TSOs amend the common set of requirements and send them to NEMOs. NEMOs propose amendments to the algorithm methodology. Implementation starts after the amendments to the algorithm methodology are approved. NEMOs in coordination with TSOs are responsible for Intraday Auctions (IDAs). There are still several open issues, such as the number of IDAs, obligatory and voluntary implementation, prohibition of stopping continuous trade inside bidding zones during IDA, the length of XBID interruption, and gate opening and closing times for IDAs.

4.4. ACER Decision on the CCR amendment

Mr Gence-Creux presented the key issues from the draft ACER Decision on the amendment of the capacity calculation regions.

The Decision was referred to the Agency on 4 October. The request for a decision resulted from a disagreement between two NRAs with regard to the CCR allocation of the Cobra Cable. A compromise was found with NRAs on 9 November. Possibly a public consultation will take place in December. AEWG endorsement and BoR opinion are foreseen for March 2019. The deadline for the Decision is 4 April 2019.

He also explained the agreed compromise.

4.5. ACER Implementation Monitoring Report on CACM and FCA

Mr Gence-Creux presented the ACER Implementation Monitoring Report (IMR) on the CACM and FCA GLs.

This report assesses the implementation of the Regulation on Forward Capacity Allocation (Regulation (EU) 2016/1719) and the Regulation on Capacity Allocation and Congestion Management (Regulation (EU) 2015/1222). Beyond the issue of legal compliance, the report assesses eventual difficulties faced in implementing policies. The report provides conclusions and recommendations across the EU.

The early stage of the implementation of the FCA and CACM Regulation can overall be considered as successful and a decisive milestone in the development of fully integrated electricity markets across the EU. Although most of the new terms and conditions or methodologies have now been adopted and some of them also implemented, there are still a lot of caveats and challenges, which will require utmost attention and improvement in the forthcoming years.

For the FCA Regulation, the main points of attention include: the harmonisation of LTTR rules; and the regulatory authorities' decisions on cross-zonal risk hedging opportunities. For the CACM Regulation, the main points of attention include: the methodologies related to capacity calculation and to redispatching and countertrading; the bidding zone configuration; the MCO function; and the design of intraday coupling. Beyond the technical issues, there are also a few other important governance or procedural aspects linked to the Network Code implementation process, which would deserve improvement. For example, TSOs or NEMOs failing to develop and submit proposals to regulatory authorities within a set deadline.

The drafting of this IMR has taken much time, but the IMR gives a complete overview of the state of play of the implementation of these important GLs. The IMR also gives the opportunity to consider amendments to the GLs. This has been discussed extensively with all NRAs. All in all, the IMR shows well where we stand and where we need to go. The document was uploaded for the BoR and only needs to go through Director's review before it is published by the end of the year.

BNetzA sent some critical issues to ACER which seem to be not included in the report, with regard to the future structure of MCO governance, future mergers of CCRs, the BZR and on non-discrimination of internal and cross-border flows.

4.6. Improvements to NC implementation

The AEWG Chair introduced the discussion on enhancing the role of the NRAs in the network codes' development process, the role of the BoR and its potential guidance to the AEWG and TFs at an early stage. He presented an outline of the implementation process covering CACM, EB, FCA and SO Guidelines. Much progress in the approval of the Term, Conditions and Methodologies (TCMs) has been achieved but this is not considered as the end of the process for implementation. On CACM and FCA there are important achievements but also there are pending issues. Main challenges are now focused on the EB Guideline implementation including the European platforms: national vs European process as well as on the roles and responsibilities of TSOs in balancing market integration. There are also interactions between Guidelines and Network Codes. With regard to procedural improvements, the AEWG Chair proposed orientation discussions on key issues ahead of their agreement on the basis of briefings from the EWG. This would enhance the awareness and role of the NRAs in the network code development process ahead of their final decisions on terms, conditions and methodologies and would

provide an early direction; and indicate dilemmas which are possible and on which points NRAs may have different views and spotting red flags. This extra step in the procedure would also fit well with the future model and would allow a strengthened role of the BoR also at the start of the process. Members supported this proposal and BNetzA indicated that ACER should focus mainly on the points of disagreement of the NRAs.

5. Gas

5.1. Important AGWG updates

The AGWG Chair provided an update on the ongoing work in the ACER Gas Working Group which last met on 22 November. The group discussed the opinions for submission to the BoR and other issues. The AGWG Chair further updated the BoR on the ongoing studies commission by the EC. Particularly those with regard to sector coupling (the EC received the interim report and the Sounding Board meeting took place on 21 November, where CEER and ACER were represented), the capacity commodity release study (the tender will reissue as the first one was unsuccessful. It is foreseen by the end of this year), and the tailor-made regulation, tariffs and LNG study (the ToR are under development, the plan is to launch these studies in Q1 2019). The next AGWG is on 9 January 2019.

Mr Hesseling provided several further updates from the ongoing work in the AGWG and the ACER Gas Department. On the tariff reviews, Mr Hesseling stressed that it could be useful for NRAs to already look at the published reports to date, especially those with similar regimes. Some topics come back in the various consultations. Mr Hesseling mentioned that on the FUNC platform relatively many issues arise with regard to the IO NC. The IO TF is weakly staffed, it would, therefore, be good to have more NRA staff included in that Task Force. On the Booking Platform, which came to the BoR in October, an appeal is expected. Further, ACER will have to take a decision on the incremental capacity project proposal for the Mosonmagyaróvár gas interconnection point (HUAT interconnector), as the respective NRAs did not agree on a coordinated incremental capacity proposal for this interconnection point within the legal deadline. Once this Decision is issued it will replace the two decisions of NRAs on investment conditions. The deadline is 9 April and it will be introduced at the BoR in Q1 of 2019.

6. Market Integrity and Transparency & Surveillance and Conduct

6.1. Important AMIT WG and REMIT CG updates

The AMIT WG co-Chair provided an update on the AMIT WG, which last met on 8 November. The next meeting is on 21 February 2019. A new TF convenor was appointed for the REMIT policy TF.

Mr Zuleger provided an update with regard to important AMIT WG and REMIT CG updates. There is ongoing REMIT policy work on improving transparency regarding disclosure of inside information, an energy commodity derivatives paper, and a potential revision of the REMIT framework.

With regard to data quality Mr Zuleger focused on the data quality framework and on data quality assurance. The Agency and NRAs aim to ensure and promote the wholesale market integrity and transparency for the ultimate benefit of the consumers and market participants. For this reason, the Agency and NRAs are successfully implementing processes to conduct market surveillance, but it is data quality that determines the efficiency and quality of surveillance. Therefore, the Agency aims to facilitate a systematic implementation of a data quality management framework used to assess REMIT data at the Agency and NRAs. On data quality assurance, the agreed overall DQ strategy is that the Agency's and

NRAs' DQ activities should focus on transaction data, especially the reporting of trades and orders done on the largest OMPs. A DQ strategy matrix was with the planning of DQ activities for 2019 was established. On data sharing 15 NRAs involved, 9 NRAs receiving data daily. He then presented the State of play of SMARTS and the state of play of OBIEE.

BNetzA presented their joint Guidance paper with Bunderkartellsamt about the admissibility of price spikes in wholesale energy markets and the application of REMIT. BNetzA seems to have reached a final stage of their joint work and shared an English translation of their joint paper titled "Guideline on Abuse Control under Competition Law and Wholesale Energy Market Law in the Power Generation Sector – Price Spikes and Their Admissibility" ("the Paper"). BNetzA indicated that the paper is intended to be published for consultation. Additional comments are only possible until Friday 14:00 (14 December).

The Chair expressed his appreciation that this paper has been shared with the BoR during the meeting.

6.2. Alert Dashboard Project presentation and state of play of REMIT cases

Mr Godfried provided a presentation on the Alert Dashboard project to inform BoR members on alert statistics to better identify surveillance priorities and resource allocation. The BoR is informed on a semi-annual basis. The presentation provided an update about the state of play of ACER's alert screening as part of its market monitoring activities.

Ms Geitona informed members on the documents of common interest circulated under Part B of the agenda and the EU Corner. The latter is only accessible to BoR members and ACER staff, and there documents can be found relating to EU agenda legislative initiatives, stakeholder positions, forthcoming events and studies by the EC and stakeholders.

The BoR Chair thanked E-Control for the organisation and hosting of the meetings. Mr Urbantschitsch thanked his team.

(14:00-16:00)

BoR second pre-Summit discussion on the regulatory challenges emerging from a transition of the energy system due to decarbonisation

The second pre-Summit discussion was held. The BoR discussed and provided feedback on the concrete areas and high-level considerations identified by the AEWG and AGWG Chairs and HoDs, in preparation of the Summit. The discussions were structured in three separate sections: sector integration, electricity and gas.

Concluding, the BoR Chair reiterated the usefulness of targeting at a joint paper, providing a holistic view of the energy system and how it would fit to serve decarbonisation targets. However, the specific scope of the paper and timing are not yet crystallised. Given the different context for electricity and gas (and various degrees of urgency between the two) it was noted that the BoR Vice-Chair will continue discussions in early January with the AWG Chairs, the HoDs and the Director on the indicative roadmap/timeline as well as on the procedural arrangements. These discussions will allow for a proposal to be made on the next steps on the basis of the scope of the paper.