

88th ACER Board of Regulators Meeting

22 January 2020

Brussels, Belgium

Minutes, final

Member States	Name ^[1]	Member States	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer O: Christine Materazzi-Wagner	Latvia (PUC)	M: Rolands Irklis A: Lija Makare
Belgium (CREG)	M: Koen Locquet A: Geert Van Hauwermeiren	Lithuania (NERC)	M: Inga Žilienė
Bulgaria (EWRC)	O: Svetla Todorova	Luxembourg (ILR)	M: Camille Hierzig
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić Škevin	Malta (REWS)	A: Phyllis Mycallef O: Manuel Manuzzi
Cyprus (CERA)	A: Alkis Philippou	Netherlands (ACM)	M: Henk Don O: Mathieu Fransen
Czech Republic (ERO)	M: Martin Šik O: S. Travníček	Poland (URE)	M: Rafał Gawin A: Małgorzata Kozak
Denmark (DUR)	M: Carsten Smidt	Portugal (ERSE)	M: Pedro Verdelho O: Natalie McCoy
Estonia (ECA)	A: Marilyn Tilkson	Romania (ANRE)	O: Florin Tobescu
Finland (EV)	M: Simo Nurmi	Slovakia (RONI)	A: Denisa Lanikova
France (CRE)	A: Jean-Laurent Lastelle O: Claire Hellich-Praquin O: Anne-lise Teani	Slovenia (AGEN-RS)	M: Duška Godina A: Bojan Kuzmič
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Spain (CNMC)	A: Esther Espeja
Greece (RAE)	A: Nektaria Karakatsani	Sweden (Ei)	M: Anne Vadasz-Nilsson A: Caroline Törnqvist O: Anna Cedemar
Hungary (HEA)	A: Attila Nyikos O: Ádám Krinszki	United Kingdom (Ofgem)	O: Stuart Borland O: Colin Broomfield O: Kristian Marr
Ireland (CRU)	M: Jim Gannon O: Andrew Ebrill	EEA-EFTA State	
Italy (ARERA)	M: Clara Poletti A: Francesco Cariello O: Ilaria Galimberti	Norway (NVE-RME)	M: Ove Flataker A: Anne Dønnem

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

		EFTA Surveillance Authority (ESA)	M: Högni Kristjánsson, A: Gunnar Thor Petursson, O: Anne De Geeter
ACER	Christian Zinglensen, Christophe Gence-Creux, Fay Geitona, Stefano Vaona		
European Commission	Florian Ermacora, Guido Bortoni, Oliver Koch, Michael Schuetz, Paula Ceballos Coloma		

1. Opening

1.1. Approval of the agenda

The agenda of the 88th BoR meeting was approved. The draft agenda has been sent to the European Parliament.

The Chair asked for declarations of conflict of interest: No conflict of interest was declared.

1.2. Minutes of the 87th BoR meeting

The minutes of the 87th BoR meeting were approved and were, subsequently, sent to the European Parliament on 20 December.

Decisions/ Conclusions

1.1 The agenda was approved.

2. Introduction by the new ACER Director

2.1. Introductory statement by Mr Zinglensen

The new ACER Director, Mr Zinglensen, made some introductory remarks on his vision and focus areas for ACER in the future in the light of the ACER programming document 2021-2023 and in the context of the broader EU energy policy objectives and the European Green Deal. He highlighted the implications for ACER going forward, in particular, by reinforcing the vision of the Agency as a trusted partner, by communicating widely the activities of the Agency to the public and by engaging with stakeholders. The Director acknowledged the amount of tasks that the Agency is called upon to deliver and the future challenges stemming from the European Green Deal. Reinforcing cooperation with NRAs is key at all levels within the ACER organisation so as to increase the value of the contribution of the Agency and NRAs to the wider EU priorities, making good use of synergies and interdependencies, given the complementarity of the mandates of the Agency and NRAs as well as their shared mission.

3. Updates from the ACER Director, EC and BoR Chair

3.1. Updates from the ACER Director

The ACER Director and the BoR Chair warmly welcomed the ESA BoR member and alternate, Mr Högni Kristjánsson and Mr Gunnar Thor Petursson. Mr Kristjánsson outlined the ESA role and expressed his appreciation for the ESA's participation to the ACER BoR looking forward to the fruitful cooperation.

The BoR took note of the latest publications of the Agency since the last BoR meeting took place (11 December) as well as on the outcome of the BoR electronic procedures as follows:

The BoR electronic procedure (final round) for the BoR favourable opinion on the draft ACER practice report on transmission tariff methodologies ended on 18 December. 27 members participated and all were in favour of a favourable opinion on the draft ACER report (while one more member indicated that they were in favour after the deadline). The BoR favourable opinion was deemed to be provided.

The BoR electronic procedure for the BoR approval of the revised BoR Rules of Procedure ended on 20 December. 27 members participated and all approved the RoP.

3.2. Updates from the European Commission

Mr Ermacora from the European Commission warmly welcomed Mr Zinglensen, the new ACER Director. Mr Ermacora outlined some key elements of the European Green Deal which sets out the way for Europe to become the world's first climate-neutral continent by 2050. Measures accompanied with an initial roadmap

of key policies range from ambitiously cutting emissions and increasing EU's climate ambition for 2030 and 2050, to investing in cutting-edge research and innovation, to preserving Europe's natural environment. The EC will propose to increase the EU's greenhouse emission reduction targets for 2030 to at least 50% and towards 55% compared with 1990 levels. The key policy areas are: clean energy, sustainable industry, building and renovation, sustainable mobility, biodiversity, sustainable food systems, eliminating pollution and the EU as a global leader. Further decarbonising the energy system is critical to reach climate objectives in 2030 and 2050. Implementation of the Clean Energy Package and the existing framework is key to achieve the EU's objectives. The new Green Deal tries to address in a more holistic way what decarbonisation means for various industries (transport, agriculture etc.) The smart integration of renewables, energy efficiency and other sustainable solutions across sectors will help to achieve decarbonisation at the lowest possible cost. The Commission intends to issue a Strategy on smart integration in the course of 2020. The decarbonisation of the gas sector will be facilitated. We need to reflect what the new target of CO₂ reduction 50-55% means and to which extent the RES and energy efficiency targets will be also adapted. Climate neutrality also relies on smart infrastructure. The EC intends to review the TEN-E Regulation, which aims at aligning our infrastructure with the European Green Deal and at facilitating the development of future-proof infrastructure. Mr Ermacora also raised the important dimension of the external climate and energy policy. Today only around 10% of the global emissions come from the EU. The EU electricity market design would help address CO₂ emissions and this could be incorporated in its external strategy. The Commission also plans a Strategy to facilitate exploitation of offshore wind.

3.3. Updates from the BoR Chair

The BoR Chair welcomed on behalf of the BoR Mr Zinglensen. The BoR is keen on ensuring a constructive cooperation with the new ACER Director and is fully committed to work together with the Director in order to deliver ACER's work against the important challenges of the EU energy policy context.

4. Items for opinion/approval/endorsement/agreement

4.1. ACER Opinion on ENTSO-E's Annual Work Programme 2020

The Director presented the draft ACER Opinion. Pursuant to Article 32(2) of Regulation (EU) 2019/943 ENTSO-E must submit a draft annual work programme, including the information regarding the consultation process, to ACER for an opinion. The draft ACER Opinion notes that the ENTSO-E Annual Work Programme for 2020 is in line with the requirements of Articles 30(4) and 31(1) of the Regulation (EU) 2019/943. No comment or amendment has been submitted by BoR members.

The BoR provided its favourable opinion on the draft ACER Opinion on ENTSO-E's Annual Work Programme 2020 by consensus of the members present or represented.

4.2. ACER Decision on the implementation framework for a European platform for the exchange of balancing energy from aFRR

The Director presented the draft ACER Decision. It sets out the implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation (aFRR) in accordance with Article 21 of Regulation (EU) 2017/2195 as set out in Annex I to the Decision.

Proposals for amendments were submitted related to three main areas:

- A) Proposals (1), (4), (6) by 3 members on 6.2.11.1 of the ACER Decision and Articles 3.8 and 7 of Annex I of the Decision.

The BoR agreed to vote on them collectively. The proposals for amendments were not adopted as they failed to receive the required majority.

- B) Proposals (2), (3), (5), (7), (9), (10) by 8 members on the whereas, Articles 3.3 and 6, new Article 7, Articles 13, 14 of Annex I of the Decision.

The BoR agreed to vote on them collectively. The proposals for amendments were not adopted as they failed to receive the required majority.

- C) Proposal for amendment (8) submitted by one member on Article 11(7) of the Annex I of the Decision.

The BoR adopted by the required majority the proposal for amendment (8) on Article 11(7) of the Annex I of the Decision. A comment on Article 6(4) of Annex I by a member was also submitted.

The Director resubmitted his revised proposal incorporating the adopted amendment and the above comment for a BoR favourable opinion. The proposal did not reach the required majority for a BoR favourable opinion.

The Director presented a new further revised compromise proposal for the BoR consideration and vote on a favourable opinion. After further discussions and following the request by several BoR members, the BoR agreed by consensus to hold a single round of electronic procedure with a shortened deadline (23 January 2020, COB) for the provision of the BoR favourable opinion on the revised compromise proposal for Decision.

4.3. ACER Decision on the implementation framework for a European platform for the exchange of balancing energy from mFRR

The Director presented the draft ACER Decision. It sets out the implementation framework for the European platform for the exchange of balancing energy from frequency restoration reserves with manual activation ('mFRRIF') in accordance with Article 21 of Regulation (EU) 2017/2195 as set out in Annex I to the Decision.

A joint proposal for amendments (1), (2), (3), (4), (5), (6) by eight members was submitted related to the whereas, Articles 3.3 and 6, new Article 7, Articles 12 and 13 of the Annex I of the Decision. The BoR agreed to vote them collectively. A comment on Article 6(4) of Annex I by a member was also submitted.

The proposal for amendment was not adopted as it failed to receive the required majority.

The Director resubmitted his revised proposal incorporating the comment submitted for a BoR favourable opinion. The proposal failed to reach the required majority.

The Director presented a new, further revised compromise proposal for the BoR's consideration and vote on a favourable opinion. After further discussions and following the request by several BoR members, the BoR agreed by consensus to hold a single round of electronic procedure with a shortened deadline (23 January 2020, COB) for the provision of the BoR favourable opinion on the revised compromise proposal for Decision.

4.4. ACER Decision on the methodology for pricing of balancing energy and cross-zonal capacity

The Director presented the draft ACER Decision which follows the request of all the regulatory authorities that the Agency adopts a decision on the proposal for the pricing methodology by all TSOs on which all regulatory authorities could not agree. It sets out the methodology to determine prices for the balancing energy that results from the activation of balancing energy bids in accordance with Article 30 of Regulation (EU) 2017/2195 as set out in Annex I to the Decision.

A proposal for amendment which was submitted by one member was withdrawn.

The BoR provided its favourable opinion on the draft ACER Decision on the methodology to determine prices for the balancing energy that results from the activation of balancing energy bids by the required majority of the members present or represented. ACM voted against.

4.5. ACER Decision on the amendment of the algorithm methodology

The Director presented the draft ACER Decision. On 31 July 2019, all Nominated Electricity Market Operators (NEMOs) submitted to ACER a proposal for amendment to the Algorithm methodology. The draft ACER Decision revises and approves the proposal for amendment. Annex I to the Decision sets out the amended Algorithm methodology, pursuant to Article 37(5) of the Capacity Allocation and Congestion Management (CACM) Regulation.

A comment was submitted by one member which was accepted by the Director and the following proposals for amendments: Proposals for amendments by one member (1) and (3) regarding the whereas of the ACER Decision and Annex II (Articles 2.2 and 3.4) and one proposal (2) by one member on Article 19(2) of Annex I of the Decision.

The Chair opened the vote on the proposals for amendments. The BoR did not adopt the proposals for amendments as they failed to reach the required majority.

The BoR provided its favourable opinion on the draft revised ACER Decision on the NEMOs' proposal for the price coupling algorithm and for the continuous trading matching algorithm, also incorporating TSOs' and NEMOs' proposals for a common set of requirements, by the required majority of the members present or represented. CRE voted against.

4.6. ACER Decision on the amendment of the products proposal

The Director presented the draft ACER Decision. Pursuant to Articles 9(1), 9(6)(h) and 53(1) of the Capacity Allocation and Congestion Management (CACM) Regulation, all NEMOs are required to propose products that can be taken into account in the SIDC. Based on the provisions of Article 53 of the CACM Regulation, the terms and conditions on SIDC products determine the products that can be taken into account in the continuous and auction SIDC. The draft Decision addresses the general requirements for continuous single intraday coupling products; the continuous single intraday coupling products; the general requirements for intraday auctions; the mandatory and optional products for intraday auctions; the timescale for implementation. No comment or amendment has been submitted by BoR members.

The BoR provided its favourable opinion on the draft ACER Decision on all NEMOs' proposal on products that can be taken into account by NEMOs in intraday coupling process, by consensus of the members present or represented.

4.7. ACER Decision to extend the HANSA NRAs' decision on CCM under the FCA GL

The Director presented the draft ACER Decision. It follows the request of Hansa regulatory authorities (Denmark, Germany, Luxembourg, Netherlands, Poland and Sweden), received on 13 December, to extend the period for reaching an agreement on the Hansa CCR's TSOs' proposal for the long-term CCM by six months, pursuant to Article 6(10) of Regulation (EU) 2019/942. The draft ACER Decision provides that the Agency accepts the request for an extension and extends the period for those regulatory authorities to reach an agreement on the Proposal by six months, until 3 July 2020.

No comment or amendment has been submitted by BoR members.

The BoR provided its favourable opinion on the draft ACER Decision on the request of the regulatory authorities of the Hansa capacity calculation region to extend the period for reaching an agreement on the long-term capacity calculation methodology, by consensus of the members present or represented.

4.8. ACER Programming Document (PD) 2021-2023, Work Programme (WP) 2021 and draft 2021 budget

The Director presented the PD 2021-2023. It sets the broader challenges going forward including contributing, from a regulatory perspective, to the EU's wider energy and decarbonisation goals and the EU Green Deal; implementing the Clean Energy Package; engaging on the future gas market design of Europe; engaging stakeholders for greater impact, communicating strategically and via modern tools; redeploying resources to meet future challenges; putting the Agency's REMIT activities on sound financial footing. Pursuant to the ACER Regulation (Article 20), the Administrative Board shall adopt the draft programming document after receipt of a favourable opinion of the BoR, and shall submit it to the European Parliament, to the Council and to the Commission no later than 31 January. Pursuant to Article 22.5(d) of the ACER Regulation the BoR shall approve the programming document. The ACER Programming Document 2021-2023 which also includes the 2012 ACER WP reflects the classification strategy to prioritise the ACER activities as critical, important and relevant. It is prepared in accordance with the provisional draft estimate established in accordance with Article 33(1), (2) and (3) of the ACER Regulation. The budget for 2021 amounts to €21,434,793. The Director explained that the PD reflects a different approach on resources. 2021 will be the first year in which the Agency will not be fully funded by the EU budget but also by fees collected in for providing REMIT-related services. The Director explained that the raise of fees is essential to balance the lack of subsidies to the Agency from the EU budget, which may be reduced over time.

The Commission explained that the discussions on the 2021 budget will be more open, but also more important and complex than in previous years given the new Multiannual Financial Framework setting the path for the coming years. Furthermore, part of ACER's funding will be based on fees, which brings new challenges, but could also relieve pressure from the EU budget contribution. ACER and the Commission will need to continue to cooperate closely in order to put the Agency on a sound financial footing for the coming years.

The BoR provided its favourable opinion and approved the draft ACER Programming Document (PD) 2021-2023 which includes the 2021 Work Programme and pursuant to Article 32 of the Financial Regulation the budget for 2021 which amounts to €21,434,793, by consensus of the members present or represented.

Decisions/ Conclusions	<p>4.1 The BoR provided its favourable opinion on the draft ACER Opinion on ENTSO-E's Annual Work Programme 2020 by consensus of the members present or represented.</p> <p>4.2 The BoR agreed by the required majority the proposal for amendment submitted by one member on Article 11(7) of the Annex I of the Decision on the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation. The BoR agreed by consensus to hold a single round of electronic procedure with a shortened deadline (23 January 2020, COB) for the provision of the BoR favourable opinion on the revised compromise proposal for the Decision on the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation.</p> <p>4.3 The BoR agreed by consensus to hold a single round of electronic procedure with a shortened deadline (23 January 2020, COB) for the provision of the BoR favourable opinion on the revised compromise proposal for the Decision on the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with manual activation.</p> <p>4.4 The BoR provided its favourable opinion on the revised draft ACER Decision on the methodology to determine prices for the balancing energy that results from the activation of balancing energy bids by the required majority of the members present or represented. ACM voted against.</p> <p>4.5 The BoR provided its favourable opinion on the revised draft ACER Decision on the NEMOs' proposal for the price coupling algorithm and for the continuous trading matching algorithm, also incorporating TSOs' and NEMOs' proposals for a common set of requirements, by the required majority of the members present or represented. CRE voted against.</p> <p>4.6 The BoR provided its favourable opinion on the draft ACER Decision on all NEMOs' proposal on products that can be taken into account by NEMOs in intraday coupling process, by consensus of the members present or represented.</p> <p>4.7 The BoR provided its favourable opinion on the draft ACER Decision on the request of the regulatory authorities of the Hansa capacity calculation region to extend the period for reaching an agreement on the long-term capacity calculation methodology, by consensus of the members present or represented.</p> <p>4.8 The BoR provided its favourable opinion and approved the draft ACER Programming Document (PD) 2021-2023, by consensus of the members present or represented.</p>
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5. Cross-sectoral

5.1. Second revision of the BoR Rules of Procedure (RoP)

The Chair introduced the discussion. The last BoR endorsed some key areas to focus on during the second revision of the BoR RoP and work has been pursued by the RoP Group. On the basis of a note, the BoR discussed and endorsed some proposals for adaptations (including *inter alia* the chairmanship of the BoR meetings where the Chair and Vice-Chair are impeded, adaptations regarding the minutes, the treatment of abstentions, the combination of the deliberations at physical meetings and electronic procedures, the approach on virtual participation at the BoR meetings, the definition of comments and amendments, the approach on compromise amendments during the electronic procedure, a simplified process for the provision of guidance) subject to a final legal scrutiny. The BoR discussed further and provided steer on other proposals (e.g. process to vote on amendments related, conflicting etc.). Members noted further the need for a flexible approach, the need to address the case of deadlocks, the need to make the distinction between procedural issues to be reflected in the RoP as opposed to substantive issues which are outside their scope (e.g. regional criteria) etc. The EC noted the need for legal certainty and coordination in terms of comments and amendments. In the light of the steer of the BoR, the RoP Group will pursue its work which is intended to finish by April and, therefore, modifications on all the selected areas will be submitted to the March BoR for approval.

The ACER Director noted the need to ensure that the process (in terms of the overall timings and complexity) is operational, smooth and allows the prompt delivery of ACER acts as well as reflects the specific roles as provided in the Regulation. He would be pleased to provide input during the future discussions.

5.2. BoR's input on the second revision of the Agency Working Groups (AWGs) RoP

The Chair invited the BoR to take note on the proposals included in a note presenting some key issues for adaptations of the AEWG and AGWG RoP to provide early input to the Director for the upcoming 2nd revision of the AEWG and AGWG RoP. The proposals therein reflect work in progress following proposals by the rapporteurs at the RoP Group and preliminary feedback from the AEWG and AGWG. The ACER Director noted that the Agency would also feed into this process during the next month. The discussions will be pursued at the AEWG and AGWG level and at the RoP Group to develop further the proposals under consideration. Proposals will be submitted at the March BoR for further discussion in order to finalise the BoR's input to the Director.

Decisions/ Conclusions

5.1 The BoR endorsed some of the proposals for the BoR RoP adaptations under section 2 subject to a proper legal scrutiny and provided steer on the other proposals included in the note for BoR's consideration. On the basis of the BoR steer, the RoP Group will finalise the work and present to the March BoR proposals for approval.

5.2 The BoR took note of the preliminary proposals for the AEWG and AGWG RoP adaptations and provided input. On the basis of the BoR's input and further input by the AEWG and AGWG, the RoP Group will finalise the BoR's input to the Director and present it to the March BoR for agreement.

6. Gas

6.1. Important AGWG updates

Mr Pedro Verdelho as the AGWG Chair provided an update on the ongoing work in the ACER Gas Working Group and its Task Forces.

7. Electricity

7.1. Important AEWG updates

Ms Christine Materazzi-Wagner as the AEWG Chair provided an update on the ongoing work in the ACER Electricity Working Group. She provided a general update on ongoing work including on the bidding zone review methodology; the issue of transit shipping in single ID coupling, the CEP 70% target, the draft RoP for the EU DSO entity. She also addressed the AEWG outlook 2020 in terms of the future work of the Task Forces.

8. Market Integrity and Transparency & Surveillance and Conduct

8.1. REMIT CG and AMIT WG updates

Ms Annegret Groebel, the AMIT WG Chair provided an update on the ongoing work in the ACER Market Integrity & Transparency Working Group. The next REMIT Coordination Group will be held on 12 February and the next AMIT meeting will be held on 13 February.

9. Other issues

OFGEM thanked the BoR for the collaboration over the last years. OFGEM shall continue to work as full member of CEER and are keen on being part of the ACER work in any appropriate format.