

95th ACER Board of Regulators Meeting

18 November 2020

By video/audio conference

FINAL MINUTES

Country/Institution	Name ^[1]	Country/Institution	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer O: Christine Materazzi-Wagner	Latvia (PUC)	A: Lija Makare
Belgium (CREG)	M: Koen Locquet A: Geert Van Hauwermeiren	Lithuania (NERC)	M: Inga Žilienė A: Irma Vasarytė
Bulgaria (EWRC)	A: Evgenia Haritonova	Luxembourg (ILR)	M: Camille Hierzig
Croatia (HERA)	O: Sonja Tomašić Škevin	Malta (REWS)	A: Phyllis Mycallef O: Manuel Manuzzi
Cyprus (CERA)	O: Marilena Delenta (with proxy) O: Christina Zouvani (with proxy)	Netherlands (ACM)	A: Remko Bos
Czech Republic (ERO)	A: Jana Haasová O: Tomáš Kupčiha	Poland (URE)	A: Małgorzata Kozak O: Sierocińska Danuta
Denmark (DUR)	M: Carsten Smidt	Portugal (ERSE)	A: Pedro Verdelho O: Natalie McCoy
Estonia (ECA)	A: Marilyn Tilkson	Romania (ANRE)	O: Florin Tobescu (with proxy)
Finland (EV)	A: Antti Paananen	Slovakia (RONI)	A: Mária Bronišová O: Vlastimil Jurkuliak
France (CRE)	A: Jean-Laurent Lastelle O: Frank Heseler O: Dab Samuel O: Romain Charvet	Slovenia (AGEN-RS)	A: Bojan Kuzmič

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

Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Spain (CNMC)	O: Gema Rico (with proxy) O: María Jesús Martin
Greece (RAE)	M: Apostolos Gotsias A: George Paidakakis	Sweden (Ei)	M: Anne Vadasz-Nilsson A: Caroline Törnqvist
Hungary (HEA)	M: Pál Ságvári A: Gergely Szabó	EEA-EFTA State Iceland	
Ireland (CRU)	M: Jim Gannon	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Francesco Cariello O: Ilaria Galimberti	EFTA Surveillance Authority (ESA)	O: Anne De Geeter
ACER	Christian Zinglensen, Christophe Gence-Creux, Dennis Hesseling, Martin Godfried, Volker Zuleger, Bart Vereecke, Fay Geitona, Mitsuko Akiyama		
European Commission	Florian Ermacora, Michael Schuetz, Benedikt Klauser, Oliver Koch		
CEER	Charles Esser		

1. Opening

1.1. Approval of the agenda

The Chair informed the BoR that the December BoR meeting and Away Day Part 2 will be virtual meetings.

The agenda of the 95th BoR meeting was approved. The draft agenda has been sent to the European Parliament.

The Chair asked for declarations of conflict of interest. None was declared.

1.2. Minutes of the 94th BoR meeting

The minutes of the 94th BoR meeting were approved and sent to the European Parliament on 27 October.

Decisions/ Conclusions

1.1 The BoR approved the agenda and agreed that the December Away Day and BoR meeting will be virtual.

2. Updates from the ACER Director and the BoR Chair

2.1. Updates from ACER

The Director thanked members for their continuing support with regard to the 2021 EU budget negotiations and provided an update on the state of play and the current discussions at the Council and the European Parliament including the planning. At the EP Plenary session of 12 November, MEPs rejected the ITRE amendments to ACER's 2021 budget tabled by Cristian Busoi (ITRE Chair) to increase the EU subsidy to 16.309.983€ and add 5 posts. The discussions are being pursued at the Council in parallel, to be followed by the conciliation discussions between the EC, EP and the Council.

The Director also reported on his Market Monitoring Report (MMR) presentation to the ITRE Committee delivered on 27 October. Following a brief reference to the ACER draft Programming Document, the Director explained to the ITRE Committee that market rules are working well and gas markets are well integrated. The MEPs were very engaged and the discussion focused on a wide range of issues including on the ACER budget constraints and which tasks ACER would deprioritise if the definitive budget does not reflect ACER's request, the Covid 19 pandemic and its impact on the internal energy market, the "cost of non-Europe" for the internal energy market, infrastructure planning and network development issues, issues pertaining to Security of Supply and capacity mechanisms as well as the future role of gas.

The BoR took note of the latest publications of the Agency since the last BoR meeting, as well as the outcome of the BoR electronic procedure on Continental Europe NRAs' request for a three-month extension of the deadline for issuing the decision on the proposal for additional properties for frequency containment reserves in accordance with Article 154(2) of the Regulation (EU) 2017/1485. The electronic procedure was conducted in two rounds ending on 12 November. 26 members participated and all voted in favour. The BoR favourable opinion was deemed to have been provided by consensus among participants in the procedure.

2.2. Updates from the BoR Chair

The BoR Chair reported on the discussions of Part 1 of the BoR Away Day, which took place on 17 November and explained the next steps.

**Decisions/
Conclusions**

2.2 The BoR agreed to the agenda for Part 2 of the BoR Away Day.

3. Keeping sight of the wider Energy Union context

3.1 Update on the EU Green Deal and other updates

Mr Ermacora presented the state of play of the upcoming EU strategy on offshore renewable energy. The EU strategy will propose to increase Europe's offshore wind capacity from its current level of 12 GW to at least 60 GW by 2030 and to 300 GW by 2050. It will consist mainly of two documents: a policy Communication and a staff working document providing guidance on electricity market arrangements relevant to a changing environment of a significant increase of offshore renewable energy. The Communication will address in a broader way issues such as a new approach to offshore renewable energy and grid infrastructure, maritime spatial planning, a clear regulatory framework for offshore renewable energy and support for its deployment, cooperation across borders and regional cooperation. A staff working paper will address the market arrangements and framework for the increasing offshore renewable energy and cross border trade, such as "offshore bidding zones" for hybrid markets on the basis of the existing framework, hybrid projects and offshore hydrogen production, network and connection regimes and prices implications.

The Director noted that there are a number of important issues with a regulatory dimension and referred in particular to the evolution of congestion income in the future grid.

Mr Ermacora noted that new regulatory arrangements (offshore bidding zones) rely heavily on the existing framework.

Mr Ermacora reported on the European Gas Regulatory Forum, the Madrid Forum, which was attended by more than 150 participants. The Forum now addresses broader issues (beyond the implementation of network codes) including opportunities and challenges related to the further development and decarbonisation of the internal EU gas market and its integration with other energy sectors through the energy system integration and hydrogen strategies. Thus participants from NGOs and from electricity associations are also invited. The Forum will be a sounding board for developing the future EC proposals on such issues. The next Forum will be held on 29, 30 April 2021.

Mr Ermacora also referred to the publication by the EC of the Internal Energy Market annex to the 2020 State of the Energy Union Report. This report provides an update on the internal market for electricity and gas: there has been good progress, but more work is needed to fully integrate these markets, not least given its importance for delivering on the EU's ambitious climate targets via efficient decarbonisation.

The BoR Chair invited members to discuss the report.

4. Items for BoR opinion/approval/agreement

4.1. ACER Decisions on a common cost sharing methodology for redispatching and countertrading electricity in the CORE & SEE regions

The Director presented the draft ACER decisions on the Core and South East Europe (SEE) methodologies for redispatching and countertrading (RDCT) cost sharing (Article 74 of Capacity Allocation and Congestion Management Regulation (CACM)).

The Chair informed the BoR that a number of proposals for amendments and comments were submitted and opened for the vote.

The proposals for comments/amendments did not reach the required two-thirds majority for their adoption.

Members were subsequently invited to vote on the decisions as proposed by the Director for BoR favourable opinion. 27 members participated. The BoR favourable opinion was provided by the required two-thirds majority of the members present or represented.

4.2. Bidding Zone Review (BZR) methodology

Pursuant to Article 14(5) of Regulation (EU) 2019/943, TSOs and regulatory authorities must review bidding zones to examine whether alternative bidding zone configurations would increase efficiency and further cross-border trade whilst maintaining operational security of the electricity grid. The review must identify all structural congestions and include an analysis of different configurations of bidding zones in a coordinated manner with the involvement of affected stakeholders from all relevant Member States, in accordance with the capacity allocation and congestion management guideline (CACM) adopted on the basis of Article 18(5) of Regulation (EC) No 714/2009.

The Agency has proposed a two-step approach for BZR approval: a decision on EU methodology pursuant to Article 14(5) which was tabled for BoR favourable opinion, to be followed by a decision on alternative configurations to be studied. The AEWG advice endorses the proposal.

The Chair invited members to proceed to the vote for BoR favourable opinion. 27 members participated and the BoR favourable opinion on the ACER decision was provided by consensus of the members present or represented.

4.3. ACER Decision on the SEE CCR TSOs' proposal for the methodology for splitting long-term cross-zonal capacity

The Director presented the draft ACER Decision on the South East Europe (SEE) Capacity Calculation Region (CCR) TSOs' proposal for the methodology for splitting long-term cross-zonal capacity. Pursuant to Article 16(1) of the Forward Capacity Allocation (FCA) Regulation, TSOs of each CCR need to develop a proposal for a methodology for splitting long-term cross-zonal capacity and submit it to the concerned regulatory authorities for approval and to the Agency for information. In October 2019, SEE TSOs submitted a methodology for splitting long-term cross-zonal capacity, and NRAs could not reach agreement and the decision was referred to ACER. The AEWG advice endorses the draft decision.

The Chair invited members to proceed to the vote for BoR favourable opinion. 27 members participated. The BoR favourable opinion was provided by consensus of the members present or represented.

4.4. ACER Decisions on Core and SEE methodologies on regional operational security coordination (ROSC) and Core methodology on coordination of redispatching and countertrading (CACM35)

The Director presented the state of play relating to the Core and SEE methodologies on ROSC and the Core methodology on coordination of redispatching and countertrading, which aim to

ensure coordination of operational security in Core and South-East Europe, and remedial actions in the Core CCR.

The AEWG advice broadly endorses the draft decisions, which will be adopted via an electronic procedure to meet the 5 December deadline.

The BoR Chair invited members to agree to the use of the electronic procedure, and opened the floor for discussion.

The BoR agreed to the use of the electronic procedure.

Decisions/ Conclusions

4.1 The BoR provided its favourable opinion on the ACER Decisions on a common cost sharing methodology for redispatching and countertrading electricity in the CORE & SEE regions by the required majority of the members present and represented.

4.2 The BoR provided its favourable opinion on the ACER Decision on the bidding zone review methodology by consensus of the members present and represented.

4.3 The BoR provided its favourable opinion on the ACER Decision on the SEE CCR TSOs' proposal for the methodology for splitting long-term cross-zonal capacity by consensus of the members present and represented.

4.4 The BoR agreed to the use of the electronic procedure to secure its favourable opinion on the ACER Decisions on Core and SEE methodologies regarding regional operational security coordination and Core methodology on coordination of redispatching and countertrading by consensus of the members present and represented.

5. Cross-sectoral

5.1. AWG RoP

Following the discussions at the last BoR meeting, the Chair discussed the outstanding issues for the finalisation of the AWGs RoP and members provided feedback.

The Chair will pursue the discussions with the Director and the Administrative Board (AB) Chair on the AWG RoP in view of reaching an acceptable compromise.

5.2. Director-BoR joint proposal for the establishment of the ACER Consumer Working Group

The Director explained the rationale for the proposal. The Clean Energy Package enlarged ACER's legal mandate with respect to market monitoring of retail markets in electricity and gas, including the retail prices of electricity and gas and compliance with consumer rights (Article 15 of the ACER Regulation 942/2019). Currently there is no ACER structure for discussing those matters unlike the Electricity and Gas wholesale market chapters of the MMR, which are discussed in the Electricity and Gas working Groups. ACER proposes to set up a new ACER Working Group by the start of 2021, to provide a forum for NRA interactions on these topics, in accordance with Article 30(1) of the ACER Regulation, which sets out its establishment by the Administrative Board after obtaining the BoR favourable opinion, following a joint proposal by the Director and the Board of Regulators.

Members discussed the proposal and agreed to the use of an electronic procedure for its approval.

5.3. ACER Communication Strategy

The Director and Ms Vereecke presented the ACER Communication Strategy for discussion, outlining its importance in reaching out to Institutions, stakeholders and consumers and in demonstrating ACER's added value.

The strategy outlines communication and engagement activities up to 2024 in view of key objectives.

The BoR discussed the report and the next steps.

6. Electricity

6.1. Important AEWG updates

Ms Materazzi-Wagner as the ACER Electricity Working Group (AEWG) Chair provided an update on ongoing work in the AEWG and the work by the CACM, INF, FCA and SOGC Task Forces. The updates referred *inter alia* to the Electricity Coordination Group (ECG) and the Electricity Cross-border Committee (ECBC) meetings in October, the preparations of the ACER Best Practice Report on Distribution Tariffs, which is expected by the end of the year, work on the scoping phase for the CACM amendment, the current 70% target derogation requests and the white papers under preparation.

The BoR took note of the updates.

6.2. 3rd ACER Implementation Monitoring Report on the Network Code on Requirements for Grid Connection of Generators

Article 32(1) of Regulation (EU) 943/2019 requires the Agency to monitor and analyse the implementation of the Network Codes and Guidelines adopted by the European Commission. Furthermore, the Agency shall monitor their effect on the harmonisation of applicable rules aimed at facilitating market integration, as well as on non-discrimination, effective competition and the effective functioning of the market, and report to the EC.

Mr Gence-Creux presented the 3rd ACER Implementation Monitoring Report on the Network Code on Requirements for Grid Connection of Generators (NC RfG), which will be published in December. The report further aims to identify potential challenges in implementing the NC RfG and recommends concrete actions and best practices that can lead to a more efficient implementation. One of the key challenges in implementing the NC RfG is the lack of harmonisation of applicable rules such as the definition of different types of generators.

The BoR took note of the report.

6.3. ITC monitoring report 2019

Inter-TSO Compensation (ITC) mechanism compensates TSOs for costs on their transmission systems due to hosting transits. In accordance with Regulation (EU) 838/2010, ACER oversees the implementation of the ITC mechanism and reports to the Commission each year on ITC implementation and the management of the ITC fund, on the basis of data submitted by ENTSO-E. On a biannual basis (last performed in 2019), ACER also verifies the criteria for the valuation of losses at national level, which must ensure that losses are valued in a fair and non-discriminatory way.

Mr Gence-Creux presented the main findings of the ITC monitoring report 2019, namely: the ITC fund reached its highest amount (289.8 million EUR) in 2019 essentially due to the increase of the value of losses in some areas. The weighted average value of losses increased by 23%. Mr Gence-Creux noted that ACER aims to have a closer look at the value of losses.

6.4. Preparations for the European Electricity Regulatory Forum

Mr Ermacora provided a brief update on the European Electricity Regulatory Forum to be held on 7 and 8 December virtually for which invitations and the agenda were sent out last week. The Forum will focus on: the European Green Deal (what role for the market?); implementing the Clean Energy Package and the integration of electricity market through network codes and guidelines. He welcomed further discussions with ACER on the topics in the agenda and ACER's contributions.

7. Gas

7.1. Important AGWG updates

Mr Verdelho as the AGWG Chair provided an update on the ongoing work in the ACER Gas Working Group (AGWG) including progress on the tariffs reports and work undertaken by the Balancing, Interoperability, the Capacity Allocation Mechanisms and Infrastructure Task Forces.

7.2. Update on joint CEER – ACER white papers on the regulatory treatment of power-to-X facilities of hydrogen infrastructures

The AGWG Chair presented the state of play on progress and main issues addressed by the ACER-CEER White Papers on hydrogen and Power-to-Gas (P2G), which are expected to be presented for endorsement at the December/January BoR.

The BoR Chair thanked the AGWG Chair for the update and opened the floor for discussion.

The EC noted that this work fits with the EC work planned for next year in developing its legislative proposal on decarbonisation of gas including hydrogen. In January the EC will launch a public consultation on this with the intention to table proposals in 2021.

8. Market Integrity and Transparency & Surveillance and Conduct

8.1 REMIT CG and AMIT WG updates

Ms Groebel as the AMIT WG Chair provided an update on the ongoing work in the ACER Market Integrity & Transparency Working Group and the establishment of the ACER REMIT Committee (ARC). Ms Annegret Groebel will be the Co-Chair of the ARC.

Ms Groebel also informed members of the updated Guidance on the application of Regulation (EU) No 1227/2011. Pursuant to Article 16(1) of Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT), the Agency issues non-binding guidance to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way. The 5th edition of the Guidance brings up to date references to Financial Market Regulation and to the Electricity Regulation.

Members took note of the updates.

8.2 Update on the draft EC decision on REMIT fees

Pursuant to Article 32 of the ACER Regulation 2019/942, the REMIT fees and the way in which they are to be paid, shall be set by the Commission after carrying out a public consultation and after consulting the Administrative Board (AB) and the BoR.

Mr Ermacora updated members on the state of play as regards the EC decision on REMIT fees for which the adoption process is about to start. The Chair thanked Mr Ermacora for the update.