

**30th ACER Board of Regulators meetings**  
**Wednesday, 17 July 2013, 09.00-15.45**  
**Centre Borschette, rue Froissart 36, 1040 Bruxelles**

**Minutes (final)**

**Participants**

Member States	Name <sup>1</sup>	Member States	Name
Austria (E-Control)	M: Walter Boltz O: Dietmar Preinstorfer	Italy (AEEG)	M: Valeria Termini A: Clara Poletti
Belgium (CREG)	A: Koen Locquet	Latvia (PUC)	O: Lija Makare - excused
Bulgaria (SEWRC)	A: A. Toneva Excused Represented by proxy	Lithuania (NCC)	A: Vygantas Vaitkus
Croatia (HERA)	M: Tomislav Jurekovic	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: G. Shammas	Malta (MRA)	A: Anthony Rizzo
Czech Republic (ERO)	O: Miroslav Belica	Netherlands (ACM)	A: Remko Bos O: Elozona Ochu
Denmark (DERA)	O: Pia Rønager	Poland (URE)	M: Marek Woszczyk
Estonia (ECA)	O: Priit Mandmaa	Portugal (ERSE)	O: Jorge Esteves
Finland (EMV)	M: Riku Huttunen	Romania (ANRE)	M : Niculae Havrilet A : Lusine Caracasian
France (CRE)	A: Philippe Raillon - excused	Slovakia (RONI)	A: Nataša Hudcovičova
Germany (BNetzA)	A: Annegret Groebel O: Daniel Müther	Slovenia (AGEN-RS)	A: Jasna Blejc
Greece (RAE)	M: Michael Thomadakis O: Katerina Sardi	Spain (CNE)	A: Tomás Gómez o: Gema Rico
Hungary (MEKH)	O: Tamás Tóth	Sweden (EI)	A: Caroline Tornqvist
Ireland (CER)	A: Garrett Blaney	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch O: Joseph Gildea

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

Observers	Name
ACER	Alberto Pototschnig, Volker Zuleger, Fay Geitona
European Commission	Aurora Rossodivita, Oliver Koch, Kitty Nyitrai, Tanja Held, Marie-Christine Jalabert, Chryssoula Argyriou
CEER	Natalie Mccoy, David Haldearn

**Main conclusions from the meeting:**

1. *The BoR welcomed the skeleton paper on the BoR Recommendations (on the ACER evaluation) and agreed the next steps. The BoR welcomed an early draft of the EC's report and noted the need to have a coherent approach with the EC. Following their adoption, the BoR Recommendations will be published.*
2. *The Board approved (by consensus of its members present or represented) the draft 2014 ACER Work Programme, unless changes to the Work Programme resulting from the Commission's formal opinion which is pending would make the BoR approval non tenable.*
3. *Mr Pablo Villaplana Conde and Annegret Groebel were recommended by the BoR to the Director as the new co-Chairs for the ACER MIT WG.*
4. *The BoR members provided by consensus of the members present or represented their favourable opinion on the ACER opinion on ENTSO-E 2012 annual report.*
5. *The BoR members welcomed the draft letter to ENTSO-E on the scenario outlook and adequacy forecast.*
6. *Regarding the report on the capacity remuneration mechanism, the Director indicated his readiness to take account of the comments by the members. The majority of members endorsed the report. The members suggested that the report makes reference to the overall context, including the anticipated Commission's Communication on generation adequacy and be published as a contribution to the overall discussion and the Commission's work on this issue.*
7. *The BoR agreed to provide comments to the draft Consultation paper on electricity market structure and market power through the AEWG so that the ACER consultation can be launched in July.*
8. *The BoR welcomed the revised chapter on cost allocation and determination of the reference price of the draft ACER Framework Guidelines on rules regarding harmonised transmission tariff structures which will be subsequently launched for public consultation.*
9. *The BoR provided by consensus (of the members present or represented) their favourable opinion on the draft ACER opinions on the draft Regional lists of proposed electricity and gas projects of common interest 2013.*
10. *The BoR welcomed the draft ACER opinion on the ENTSG TYNDP and agreed to use the electronic procedure for the BoR formal opinion.*

11. <i>The BoR took note of the presentations on the post 2014 challenges.</i>
12. <i>The MOU between the Agency and NRAs on REMIT was signed by the ACER Director and the 28 NRAs representatives.</i>
13. <i>The BoR took note on the preparation of the ACER annual report on REMIT, on the results of the questionnaire on REMIT implementation and welcomed the letter outlining concerns on the draft EC's proposal for a Regulation on Benchmarks which will be sent asap.</i>
14. <i>BoR members took note of the preparation of the 2<sup>nd</sup> MMR and the action plan of PWS.</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 28th BoR meeting

BoR Decision agreed: (D 2)

*The 29<sup>th</sup> BoR minutes were approved.*

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

#### 2.1. Update on recent developments

##### - **EC evaluation**

Ms Groebel (the BoR Rapporteur) presented a skeleton paper outlining some suggestions with regard to the preparation of the BoR input in the Commission's report including on its scope and the issues to cover.

Regarding the next steps, the BoR will hold an orientation debate in September. The Commission was invited to provide their draft report. The adoption of the recommendations be held in autumn.

Mr Koch reported that the Commission's consultation on the ACER evaluation runs from 18 June until 18 September. He noted the Commission's willingness to cooperate in this exercise. Ms Rossodivita confirmed that although the EC initially envisaged holding a workshop, this will not be possible given the long 3 months consultation period.

### BoR Decision agreed: (D 3)

*The BoR welcomed the skeleton paper and agreed the next steps. The members invited the EC to provide an early draft of its report. Following their adoption, the BoR Recommendations will be published.*

### **EC's report**

Mr Koch reported that the Commission should be publishing a package of reports and communications after this summer:

- Guidelines on capacity mechanisms
- Guidance on best practices on support schemes for renewable
- Guidance on use of cooperation mechanisms under the RES Directive
- Document on electricity storage
- Communication on demand side measures
- Chapeau Communication on Framework for state interventions
- New initiatives regarding EU generation

The package of measures fits in the overall discussion on 2030 challenges (including the need for CO2 targets, efficiency targets, how to open up cross border systems and make them less distortive to the internal energy market, the post 2014 market design questions). A key element is how to coordinate with the state aid approach.

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

### 3.1. 2014 ACER Work Programme and draft EU 2014 budget implications

The Director submitted his proposed 2014 WP to the BoR, to the Commission and the European Parliament on 27 June. The proposal broadly reflects the previous discussions and the input from the members. There are four broad themes covered by the draft 2014 ACER WP: Completion of the IEM, the infrastructure challenge, REMIT and the longer horizon of the electricity and gas target models (future challenges to develop an effective wide-ranging vision for 2020 on wholesale market arrangements, both in electricity and gas). The proposal for the 2014 WP clearly indicates that it is dependent on the resources needed. The Director noted that depending on the final outcome of the budgetary arrangements, ACER may need to review its priorities.

The next BoR on 25 September, followed by the Administrative Board meeting on 26 September is expected to adopt the WP. Given the time schedule, the Chair sought the BoR agreement on the 2014 ACER WP with the following caveat: The BoR approves the WP unless the EC's opinion results to changes on the 2014 WP, which would make the BoR approval untenable.

### Budget developments

The Director reported that the European Commission adopted (on 26 June) the draft 2014 budget for the European Union. In the draft Budget the total funds for the Agency for next year amount to € 10 880 606. This is over € 4 ½ million (€ 4 644 714) lower than the resource requirement foreseen by the Agency and included in

the estimate of expenditure for 2014 adopted by the Administrative Board on 20 March 2013, with a supportive opinion of the Board of Regulators, which amounts to €15 525 320.

In terms of staffing, the Commission's proposal would allow the Agency to recruit only 5 additional staff, against our estimated requirement for additional 49 staff members. Despite this limited staff increase, the available funds will equally be insufficient to cover fully the operation of the REMIT-related IT system (estimated recurrent running costs of € 1.5m).

As a result the Director has written to Ms Herczog, MEP, and the ITRE Chair Sartori on 5 July outlining the implications for staff and the operation of the REMIT IT system. Both letters were circulated.

The Director also reported that the Commission's proposal for 2014-2020 financial framework is adopted and there are also serious concerns regarding ACER staffing. Although the Agency will be allowed to recruit 8 new positions by 2020 the number of staff can only be increased by 3 units compared to 2013.

The Director reported on the 2013 budget implications: The Commission Communication for transferring to the Agency the funds (approx. €3 million) for 2013 was adopted on June 2013 to be presented to the budgetary authorities in July 2013. However, the trilogue is pending and the next trilogue meeting is scheduled for September. This may make it impossible for ACER to spend the money by the end of the year.

Mr Koch assured the BoR that DG ENER is working very hard in support of ACER and its budget and resource needs, particularly given their direct relevance to the effective implementation of the REMIT provisions. He noted that while other Agencies and departments are experiencing cuts, due to the austerity budget within the European Union, ACER has been granted an increase – although DG ENER recognises this is still inadequate to fully meet ACER's responsibilities. DG ENER is working to improve the result.

Lord Mogg invited the Director to prepare a note explaining whether the budget cannot be reprioritised to cover resources needed for REMIT.

BoR Decision agreed: (D 4)

*The Board approved (by consensus of its members present or represented) the draft 2014 ACER WP unless changes result from the Commission's formal opinion on the 2014 Work Programme which is pending.*

3.2. Review of progress on Roadmap

The BoR Chair and Ms Geitona reported on the main outcomes since the last BoR meeting which are reflected in the Roadmap.

With regard to strategic thinking, work has started with a first orientation discussion at the BoR. The meeting at senior level with the EC is scheduled for 7 October. On 6 November a stakeholder workshop will be held. We also set up the next ACER Contact Group meeting (1/10) and the presentation to the ITRE of the MMR on 27 November).

With regard to actions related to increasing transparency and accountability a template for the citizens' summary has been sent to AWGs chairs and agreed. This will be henceforth used for some of the Agency's acts. The Director informed that ACER is now considering on which acts to issue a citizen's summary. He is keen on having the suggestions from the AWGs Chairs on which acts should be accompanied by a citizen's summary. Lord Mogg suggested that the citizen's summary takes more the form of an explanatory note.

A draft short guide on "ACER at a glance" (who is who, how regulatory cooperation is taking place within the Agency including the process for the adoption of acts) was circulated to provide an early indication to members. The documents are still under preparation, and it is scheduled to be finalised and uploaded on the ACER website in September. Ms Geitona thanked all colleagues for their improvements and support with this project.

The BoR Chair reported that he met Commissioner Oettinger on 18 June. The Commissioner displayed a lot of interest in the strategic future thinking.

### Conclusion

*The BoR took note of the presentation on progress on the Roadmap.*

### 3.3. BoR Recommendation on the appointment of the AMIT WG Chair

The BoR recommended to the Director Mr Pablo Villaplana Conde (CNE) and Annegret Groebel (BnetzA) to co-chair the AMIT WG and share responsibilities for the AMIT WG's activities. The Director noted that he is very pleased to take utmost account of this Recommendation and will shortly adopt his appointment decision. Mr Fadhel Lakhoua will continue as the vice chair.

### BoR Decision agreed: (D 5)

*Mr Pablo Villaplana Conde and Annegret Groebel were recommended to the Director by the BoR as the co-Chairs for the ACER MIT WG.*

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

### **4. Electricity**

#### 4.1. Report on progress on FG/NCs

Mr Crouch reported on progress.

#### 4.2. ACER Opinion on the ENTSO-E Annual Report 2012

The Director presented the draft ACER Opinion which is generally positive, but suggests some areas for improvement. The Agency's Opinion states the usefulness of putting more focus on the short-term adequacy outlooks and of providing more information on the respective ENTSO-E activities. The ENTSO-E report does not cover the work on ENTSO-E's recommendations relating to the coordination of technical cooperation between Community and third-country TSOs. Other recommendations include that ENTSO-E should endeavour to develop generation adequacy assessments for the same timeline as used for the TYNDP scenarios. In the Agency's view, ENTSO-E should undertake a cost-benefit analysis for all transmission projects of the TYNDP 2014. Moreover, the scope of the consultation on TYNDP scenarios and their underlying assumptions should be enlarged towards a fully-fledged public consultation. With regard to the monitoring and analysing of the implementation of network codes and Guidelines, the Agency notes that since these are not yet adopted findings should not be included.

#### BoR Decision agreed: (D 6)

*The BoR members provided by consensus (of the members present and/or represented) their favourable opinion on the draft ACER Opinion on the ENTSO-E 2012 annual report. The ACER Opinion will be subsequently adopted and published.*

#### 4.3. ACER letter on ENTSO-E Scenario outlook and adequacy forecast

A draft letter to ENTSO-E on its Scenario Outlook and Adequacy Forecast (SOAF) report for 2013 was circulated, outlining some of ACER's concerns and it is intended for publication. The Director and Mr Crouch presented the letter and explained that the SOAF is an intermediate step to ENTSO-E submission of the 2014 TYNDP and not a final SOAF for which the ACER opinion will be issued next year in the context of the TYNDP to be submitted in 2014. To facilitate the preparation of this and future TYNDPs, the Agency considers it important to bring to ENTSO-E attention the ACER comments. The letter includes specific concerns about the assessment of generation adequacy for the period 2013-2030, as well as the scenarios which are used as background assumptions for carrying out market and network studies within the TYNDP framework.

#### BoR Decision agreed: (D 7)

*The BoR members welcomed the letter to ENTSO-E on the scenario outlook and adequacy forecast.*

#### 4.4. ACER report on Capacity Remuneration Mechanisms and the Internal Market for electricity

The Director circulated the latest draft of this report to BoR members on 27 June for comments by 4 July. This report has been revised and circulated it again on 11 July for comments until 16 July before the publication of the report. BNetzA and E-Control sent further comments referring to the reliability options. It has been recommended to refer to “Financial reliability option” (FRO) as “Reliability option”. The Director has still concerns on this issue and prefers to highlight the financial nature of this instrument. He suggested removing the word “financial” from the title but reflect that there is a range of ways in which the reliability options can be introduced. Some of those are purely financial.

#### BoR Decision agreed: (D 8)

*The Director indicated its readiness to take account of the comments by the BoR members the majority of which endorsed the report. The report will make reference to the overall context including the anticipated Commission’s Guidance and be published as a contribution to the overall discussion and to the Commission’s work on this issue.*

#### 4.5. Item 4.5: Consultation on electricity market structure and market power

Mr Crouch presented this consultation paper. He explained that work has been ongoing for several years regarding the definition of bidding zones. A joint ACER-ENTSO-E group has worked on this and a workshop was organised. This is undertaken in the context of joint initiative of ACER and ENTSO-E for the early implementation of the Network Code on Capacity Allocation and Congestion Management (CACM) as regards reviewing the bidding zones. The consultation is intended to be launched until 30 September 2013. A discussion on the paper will be held at the next AEWG but as the consultation is intended to be launched between July and September a proper orientation in the BoR after the discussion at the AEWG cannot take place. He thus invited any comments to be made through the AEWG.

#### BoR Decision agreed: (D 09)

*The BoR agreed to provide comments to the draft Consultation paper on electricity market structure and market power through the AEWG so that the ACER consultation can be launched in July.*

## **5. Gas**

### 5.1. Report on progress on FG/NCs

Mr Boltz gave a presentation on the progress on the state of play on Gas NCs.

On CAM, many Member States have either begun early implementation or are already compliant.

On Balancing, the first Comitology meeting took place on 11 July. The next Comitology meeting with vote is scheduled on 2 October.

On Interoperability, a few topics are outstanding on which intensive discussion is expected. The issue of harmonisation is crucial for Member States. Cooperation with ENTSOG goes very well. Following BoR orientation discussion in June, the ACER preliminary opinion was shared with ENTSOG.

On incremental capacity ACER guidance on the amendment of the network code is expected by November. The tariffs consultation paper includes also some questions on incremental capacity. There is also a pilot project for coordinated open season approach for incremental capacity.

Other work include scoping work on rules for trading (2<sup>nd</sup> half of this year) and the GTM Review: The process which has now started will lead to the development of a GTM review paper by July 2014. A series of workshops are scheduled.

Mr Koch remarked the importance of the adoption phase for the network codes. We need to prepare thoroughly the discussion with the Member States and avoid delays and duplication of discussions.

Mr Boltz also discussed at the AGWG how best to prepare the Committees' discussion. He suggested that NRAs debrief the Member States, as well as the TSOs at national level. This will ensure improving awareness of the issues and avoidance of issues being reopened at the level of the Comitology Committees.

Ms Held reported on the next Comitology meeting on the balancing network code (1<sup>st</sup> and 2<sup>nd</sup> October) which will be followed by the EP scrutiny.

## 5.2. Tariffs FGs

The Director and Mr Boltz presented the Framework Guidelines (FGs) for harmonisation of Tariff Structures in gas transportation. The deadline was extended to 30 November 2013. The consultation is envisaged between 18 July – 18 Sept. 2013. A workshop is scheduled on 3 September 2013. This consultation document invites comments on chapter 3 of the Draft Framework Guidelines and focuses on cost allocation and the determination of the reference price. The final version of chapter 3 will be included in the endorsed Draft Framework Guidelines on rules regarding Harmonised Transmission Tariff Structures for gas of 16 April 2013, while sections 3.1, 3.2 and 3.7 will be integrated into chapters 1 and 2. The paper includes the following Chapters:

- Cost Allocation Methodologies and determination of the reference price
- Definitions

- Publication requirements
- General principles on the determination of the reference price Main cost allocation methodologies (postage stamp, Capacity weighted distance, Distance to the virtual point, Matrix)
- Storage
- Cost allocation test, and
- A chapter on implementation.

The objective is to prevent occurrence of cross-subsidies and discrimination; to harmonise capacity / commodity tariff split; and to ensure a level-playing field for storage. The same methodology is applied for all entry and exit points. The choice of a methodology shall reflect system characteristics in order to best achieve the objectives of the FGs and in particular those of non-discrimination, competition and promotion of cross-border trade. At least every 4 years, the NRAs shall assess or approve all assumptions regarding the stability and evolution of the input parameters to the tariff methodologies against relevant available technical and market data and outlooks. In particular, the Network Code shall develop appropriate forecasting models, taking into account the relevant TYNDPs, for the input parameters of the tariff methodology.

Regarding the next steps, these include between September and October an evaluation of responses, and on 21 October a special AGWG to discuss the FGs text. The BoR formal opinion is scheduled for its meeting on 5 November.

Ms Held thanked ACER for responding to the EC's request to include the cost allocation methodology in the draft FGs on tariffs. The EC finds the consultation paper well balanced. The impact assessment will be also very important.

#### BoR Decision agreed: (D 10)

*The BoR welcomed the revised chapter on cost allocation and determination of the reference price of the draft Framework Guidelines on rules regarding harmonised transmission tariff structures which will be subsequently launched for an ACER public consultation by the Director.*

#### 5.3.CMP guidance for implementation

Mr Boltz introduced this paper. A dialogue and cross-border coordination between the NRAs and the TSOs is a key requirement for a successful implementation of the CMP guidelines, which were published on 28th August 2012. The aim of this paper is to identify the areas requiring a harmonized approach between Member States and elaborate recommendations when necessary in the view of avoiding diverging interpretations at national levels. The paper has a non-binding nature but is intended to provide guidance to NRAs while implementing the CMP guidelines. This paper was presented and discussed as informal working paper during a roundtable on 12th June which gathered several associations and the European Commission.

Several statements are included with the view of providing guidance on a harmonized implementation of the CMP guidelines on the oversubscription and buy-back, day-ahead UIOLI, surrender and long term UIOLI mechanisms. Most comments were taken into account.

The AGWG did not reach a clear decision on whether to publish the paper or not. The AGWG Chair proposed the publication of the document as a non-binding implementation guidance for NRAs.

The Director suggested issuing an ACER Recommendation to the NRAs on this issue.

Mr Boltz supported this but was concerned on the potential delays.

Lord Mogg suggested proceeding with the publication of the Guidance note and considering, subsequently, the need for an ACER Recommendation.

Ms Held suggested a coordinated approach on this issue and informed on the questionnaire which has been issued. This has been developed in cooperation with the Commission following the AGWG discussion on 26 June, with a view of gauging progress in the implementation of the CMP Guidelines and aiming at ensuring that the respective measures are implemented in a consistent manner across IPs as well as in a wider EU context. Answers are to be submitted by 19 July.

Mr Boltz noted that realistically many Member States do not know how they will implement this (by July) and this is expected more in autumn.

### Conclusion

*The BoR welcomed the CMP guidance for implementation paper and its publication at this first stage as a non-binding guidance. Subsequently, the preparation of an ACER Recommendation may be considered.*

## **6. Regional Integration**

### 6.1. Regional arrangements

The Director presented his proposal which he was invited to prepare as a follow up to the discussion after the Hilbrecht Report and the review of the regional arrangements for providing, where appropriate, for any improvements. The proposal from the Director highlights the important role of the RIs in early implementation of the network codes and makes a number of proposals.

Mr Boltz also presented his proposal (circulated for discussion) - some of its elements have been also incorporated in the Director's note.

*Lord Mogg concluded as follows: The AEWG needs to further consider the proposal at its next meeting The Director is invited to take into account the feedback received and the further feedback from the AEWG and to report on progress at the next BoR.*

## 6.2. The way forward following the Agency's informal opinion on XBID IT selection

The Director and Mr Crouch reported on progress. On 17 June 2013 the Agency issued an informal opinion on the preferred IT system. The Agency now expects that the involved PXs will follow the indication provided in the informal opinion and rapidly progress in the implementation of intra-day market coupling in the NWE region. We need - at this stage - to define the scope of the pilot project and the TSOs and PXs need to agree on project plan and then TSOs and NRAs to discuss comfort letter for cost recovery and discuss options for cost sharing. The situation is evolving and it seems that PXs are willing to make progress towards the signature of the contract. However, this needs an agreement between the PXs and TSOs on a draft budget and project plan and a scope (i.e. which parties are in the project). We currently expect to receive the PXs estimate of their common costs for design and development of the platform by Friday. The scope evidently depends on which NRAs agree to provide a comfort letter regarding cost recovery.

Lord Mogg noted that the comfort letter is clearly a very important step to avoid delays of the intraday project.

### Conclusion

*Lord Mogg concluded as follows: At the Florence Forum ACER agreed to provide an informal opinion on the preferred IT solution, on the condition that all involved PXs accepted to be bound by such an opinion. ACER was invited to play the role which was welcomed by the Forum. The last Florence Forum invited ACER to provide its opinion before the end of June. All members, the Director and the Commission have expressed their keen interest in avoiding delays on intraday given its importance for the internal energy market, although recognising the difficulties in delivering fully satisfactory assurances (by any of the vendors). The members recognised the Directors' efforts to reach a settlement and to issue an informal opinion with a view to breaking the deadlock and the majority of members supported the adoption without further delay of the draft informal opinion circulated. At the previous BoR meeting the members urged the PXs to accept this opinion and confirmed their readiness to accept the informal opinion. This is a voluntary project but of fundamental importance for the internal energy market and we should avoid further delays. The BoR Chair urged the members who have indicated their willingness to sign to confirm their support and those which have not yet decided to inform the Director and OFGEM as lead NRA within the next few days. The Director invited the members thereafter to inform their PXs and TSOs.*

## **7. Investment challenge - European Network Planning and infrastructure challenge**

### 7.1. ACER opinion on PCI lists

The Director introduced the opinions which were submitted for a formal BoR opinion. The High Level Group meeting of MS (and EC) will decide on the lists on 24 July in Brussels. The opinions have been revised to take account of the some additional information and comments from the Commission and the messages are very consistent.

The opinions note that the Agency, while taking into account the difficulties encountered during the preparation of the draft regional lists of PCIs and some methodological weaknesses of the process, believes that the draft regional lists merit adoption as the first Union list of PCIs. To help overcome the potential ambiguity about clustering or grouping, degree of maturity, costs and benefits and other aspects of some projects included in the draft PCI lists, the Agency suggests that, soon after the 31 October 2013 deadline for the submission of investment requests by project promoters, the 2013 Union list is complemented by the following additional information on each individual PCI:

- The level of maturity;
- The status of the project;
- The expected commissioning date;
- The expected costs, with degree of certainty indicated;
- The expected benefits, with degree of certainty indicated;
- The value of the indicators “benefit-cost ratio” and “net benefit”.

The Agency notes that all PCIs will be fully reassessed in the next PCI selection round (expected in 2015), in line with Regulation and that the assessments follow the recommendations provided in this Opinion, without prejudice to the PCI status of the projects included on the first Union-wide lists which should remain fully in force until the time a new PCI list is adopted.

Other Recommendations include, *inter alia*, the need for a proper data base for a consistent project assessment, the continuation of work by ENTSOs to further improve the suitability of TYNDP assumptions and modelling for use in PCI selection; the improvement of the data collection by using revised questionnaires for project promoters; the application of a consistent clustering approach throughout Europe in the TYNDP and subsequently for the PCI selection round; the minimisation of the time gap between the finalisation of the ENTSO TYNDP and the adoption of the Union list (to a time span of eight months).

### BoR Decision agreed: (D 5)

*The BoR provided by consensus of the members present or represented their favourable opinion on the draft ACER opinions on the draft Regional lists of proposed electricity and projects of common interest 2013.*

## 7.2. Draft ACER Opinion on ENTSOG's TYNDP 2013

A draft ACER 'shadow' opinion was circulated which refers to the draft TYNDP submitted by ENTSOG. In the meantime ENTSOG submitted on 10 July the definitive TYNDP and ACER has now two months to adopt its opinion. The Chair clarified that the BoR shall need to give its formal opinion through electronic procedure (as its next meeting is on September 25).

The Director and Mr Boltz introduced the draft opinion which stipulates several Recommendations.

### BoR Decision agreed: (D 6)

*The BoR welcomed the draft opinion and agreed the use of the electronic procedure for the formal BoR formal opinion on the ACER opinion on the ENTSOG TYNDP.*

## 7.3. PCI Incentives – template for NRA submission

Mr Crouch reminded that under the TEN-E Regulation, by 31 July 2013, each NRA shall submit to the Agency its methodology and the criteria used to evaluate investments in electricity and gas infrastructure projects and the higher risks incurred by them, where available. The note circulated reminds NRAs of the deadline of 31 July and the importance of this task. A template for NRAs to do this which was also uploaded for information. There is a similar template for gas which is being prepared whilst not circulated.

## **8. Post 2014 Challenges Orientation Discussion: 13.30- 14.45**

### 8.1. Post 2014 vision

Mr Moelker presented the EWG's thinking on post 2014 issues for electricity markets. The AEWG is looking ahead to 2030 and 2050, considering 4 scenarios for market models (from centralised no market to extreme market only solutions). The AEWG members expressed a preference for a market solution model. This process is now at its early stages and should continue for the rest of 2013 and possibly in 2014 if we want to develop a shared vision.

The aim was to have a first discussion at BoR level to open the debate and scope the issues and to define the next steps given the stakeholders workshop on 6 November and the announcement in our Work Programme of our work in this area.

The presentation noted four key challenges:

- Market functioning challenge: Possible developments that may hamper the well-functioning of the markets; price signal drives efficient and RES-integrated market; introduction XB balancing markets, eliminations of distortions, like CO2 price and subsidies & potential enhancements of target model; implementation of the target model: day ahead, Intraday & forward markets, generation adequacy issue towards coordinated assessments; market coupling, bilateral cooperation, harmonisation, 3rd package;
- Flexibility challenge; market to be able to provide flexibility needed due to RES or not (fine-tuning market design, storage solutions, distributed generation). Implementation of smart metering, development of adequate smart grid models; national balancing and redispatch markets (and arrangements) starting to integrate;
- Infrastructure challenge; start execution of the investments; and first steps towards EU-coordination of grid planning (TYNDP);
- Consumer challenge; Reliability, affordability, simplicity, protection & empowerment. Towards achieving the 2020 Vision: implementation of smart metering, DSR available, Focus on protection of consumers and liberalisation of markets through implementation of 3rd Package provisions. Focus on improving transparency for consumers. Enabling of switching. Moving away from regulated energy prices.

Mr Boltz presented some key elements to scope this work following the GWG discussions. CMP and Network Codes measures will be applied over the next 3 years. He noted that we should not wait for results before looking at next steps. The NCs were not designed as the definitive arrangements and circumstances have evolved:

- dramatic changes to the role of gas in power generation
- shale gas revolution US (and now possibly in Europe)
- growth of LNG trade

In this overall context, the EU gas demand is now at a lower level than in 2002. Residential consumers are also suffering. Many residential markets not competitive. Industry is at a competitive disadvantage.

The vision should take account of the up stream competition and an integrated, efficient IEM.

We should have more competitive gas prices for industry, gas supporting RES-E and affordable gas for residential consumers.

Regarding the next steps, a high-level discussion with the EC is scheduled on 7 October and on 6 November a stakeholder roundtable. Discussions will also be held on the upcoming (15-16 Oct) Madrid Forum and (12-13 November) Florence Forum.

Lord Mogg suggested a small group invitation for contributors to this discussion ahead of the BoR orientation discussion on 25 September. We shall also need to see at the next steps, the overall timetable including for consultation.

## Market Monitoring

### 9. Market Integrity and Transparency

#### 9.1. Follow up on the questionnaire concerning the status of REMIT implementation at NRA level

Mr Zuleger presented this questionnaire which is a follow up to the questionnaire issued to NRAs in early 2012 to establish the progress at national level to successfully implement REMIT. A total of 26 NRAs provided a response (only NRAs from Cyprus and Malta did not respond). The note circulated presents the results of the questionnaire. Preliminary results were already presented in the BoR meeting on 12 June 2013. Although a majority of NRAs indicate that they monitor overall trends and tendencies in wholesale energy markets, ten NRAs report that the aim of the monitoring at national level is to detect and prevent market manipulation and insider trading as defined in REMIT. Out of the ten NRAs that are monitoring markets at national level six NRAs indicate that they are using a dedicated software solution to detect potential market abuse. Most of the NRAs monitoring wholesale energy markets stated that they allocate between one and three full time human resources for the monitoring activities.

The responses received on the amount of human resources foreseen to fulfill the monitoring of wholesale energy markets are equal in both questionnaires. Since the beginning of 2012, when the first questionnaire of the Ad-hoc Group on REMIT Implementation was analysed, progress has been made in the implementation of legal powers for investigation and enforcement of REMIT as well as for sanctions.

Lord Mogg welcomed the analysis and invited a qualitative assessment for the September BoR of the results along with a preparation of a “plan B” to address the possible ACER budget constraints

#### 9.2. MoU between:

- ACER and NRAs
- ACER and ESMA
- ACER and major organised market places

The MoU between ACER and 28 NRAs was signed at the BoR meeting. The Director reported that the MoU with ESMA will be signed tomorrow. The MOU with market places is still being finalised.

### 9.3. Preparation of the annual report on REMIT

Mr Zuleger (reported that according to Article 7(3) of REMIT, ACER need to, at least on an annual basis, submit a report to the Commission on its activities under REMIT and make this report publicly available. A draft of this report was presented briefly to the AMIT WG and it will cover the ACER's REMIT activities during 2012; the status of REMIT implementation at national level; an assessment of the operation and transparency of EU wholesale energy markets; conclusions and recommendations (for example recommendations as regards market rules, standards and procedures which could improve market integrity and the functioning of the internal market). The report will be finalised over the summer and presented to the BoR before it is submitted to the Commission.

### 9.4. REMIT and EU financial market legislation

Mr Zuleger introduced the note. A political agreement has been reached on the Proposal for a Regulation on insider dealing and market manipulation and the note circulated provides an initial assessment of the potential interaction of the political agreement with REMIT. The Agency, through the AMIT WG, will review in more detail the potential interactions between REMIT and the political agreement on the Proposal for a Regulation of the European Parliament and of the Council on insider dealing and market manipulation (market abuse) (MAR) and report about its findings into more detail in due course.

### 9.5. EU draft proposal on benchmarks

Mr Zuleger reported that the AMIT WG on 21 June noted the Commission's proposed Regulation on Benchmarks (which may also have adverse consequences on energy markets). A draft letter has been prepared to send to DG MARKT on this issue outlining the main concerns.

The members welcomed the letter which will be sent to DG MARKT asap.

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

### 10.1. 2<sup>nd</sup> MMR

Mr Locquet reported on the state of preparation: 11 of September is the last opportunity for comments on the 2<sup>nd</sup> MMR. There was a TF meeting on 4 July to discuss the draft gas and electricity chapters of the Joint Market Monitoring Report. NRAs have been invited to provide comments to the report ahead of this meeting and the next WG meeting will be held on 29 July in Vienna. The entire report should be circulated to NRAs around 22-24 July to provide comments early to facilitate the final draft being presented to the September BoR.

## **PWS – action plan**

Mr Locquet presented the draft note prepared by the Procedures Work Stream on a plan and chart outlining how it intends to structure its legal work going forward with a view to providing legal support to the legal team in the Agency and analysis of procedural issues related to the Agency; to providing legal support to the Agency regarding the FGs and NCs during the drafting activity and after their adoption by the Commission. The note has been revised and circulated following comments by the Director.

## **Part B: Items for Information only and not for an oral update / discussion**

These items have been included for information without an oral update.

### **11. Internal Energy Market: Electricity and gas**

#### 11.1. Second GRI Quarterly report 2013

### **12. Others**

#### 12.1. Next Meetings

Coord Meeting	4 Sep	Virtual
Planning Group	18 Sep	Brussels
GA	24 Sep	Ljubljana
BoR	25 Sep	Ljubljana
AB	26 Sep	Ljubljana

#### 12.2. AOB

##### **- AB decision**

The Administrative Board decision on the appointment of Ms Anjela Toneva as the Bulgarian Member of the BoR was circulated.

##### **- OECD: principles for the governance of regulators c document**

The Director reported briefly that OECD's Regulatory Policy Committee (RPC) is running a public consultation on two papers (Governance of Regulators and Regulatory Enforcement and Inspections) and invites comments until 31 August 2013.

Under the **libraries of docs of common interest** the following documents were circulated:

- ENTSOG press release on a call for information on projects to be covered in Gas Regional Investment Plans to be published by TSOs
- A press release on the agreement from the Council and European Parliament on the Connecting Europe Facility Regulation.