

**24<sup>th</sup> ACER Board of Regulators meeting**  
**Tuesday, 4 December 2012, from 09.00 to 16.00**  
 ACER, Trg Republike 3, 1000 Ljubljana

**Minutes**

**Participants**

Member States	Name <sup>1</sup>	Member States	Name
<b>Austria (E-Control)</b>	M: Walter Boltz A: Dietmar Preinstorfer	<b>Latvia (PUC)</b>	O: Lija Makare
<b>Belgium (CREG)</b>	A: Koen Locquet	<b>Lithuania (NCC)</b>	M: Vygantas Vaitkus O: Dalius Kontrimavičius
<b>Bulgaria (SEWRC)</b>	M: A. Semerdjiev Excused	<b>Luxemburg (ILR)</b>	M: Camille Hierzig Excused
<b>Cyprus (CERA)</b>	M: G. Shammas Excused	<b>Malta (MRA)</b>	A: Anthony Rizzo
<b>Czech Republic (ERO)</b>	O: Miroslav Belica	<b>Netherlands (NMa)</b>	A: Geert Moelker
<b>Denmark (DERA)</b>	O: Bente Danielsen	<b>Poland (URE)</b>	M: M. Woszczyk
<b>Estonia (ECA)</b>	O: Tiina Maldre	<b>Portugal (ERSE)</b>	A: José Braz O: Jorge Esteves
<b>Finland (EMV)</b>	M: Riku Huttunen	<b>Romania (ANRE)</b>	A: Lusine Caracasian
<b>France (CRE)</b>	A: Philippe Raillon O: Michel Thiollie	<b>Slovakia (RONI)</b>	M: Jozef Holjencik Excused
<b>Germany (BNetzA)</b>	A: Annegret Groebel O: Daniel Müther	<b>Slovenia (AGEN-RS)</b>	A: Jasna Blejc
<b>Greece (RAE)</b>	O: Katerina Sardi	<b>Spain (CNE)</b>	A: Tomás Gómez O: Rodrigo Escobar
<b>Hungary (HEO)</b>	A: Gabor Szörenyi O: Hajnalka Kelemen	<b>Sweden (EI)</b>	M: Yvonne Fredriksson
<b>Ireland (CER)</b>	M: Dermot Nolan	<b>United Kingdom (Ofgem)</b>	M: John Mogg (BoR Chair) A: Martin Crouch O: Clemence Marcelis
<b>Italy (AEEG)</b>	A: Clara Poletti O: Miranda Diana		

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

Observers	Name
ACER	Alberto Pototschnig, Fay Geitona, Christophe Gence Creux, Dennis Hesselning, Volker Zuleger
European Commission	Kamila Kloc, Oliver Koch
CEER	Natalie McCoy, David Haldearn

**Main conclusions from the meeting:**

1. *The BoR agreed to deliver its formal opinion on the ACER opinion regarding the Gas balancing Network Code through an electronic procedure before Christmas.*
2. *The BoR provided by consensus a favourable opinion on the ACER opinion on the ENTSOG 2013 WP.*
3. *The BoR discussed the draft ACER opinion on the ENTSOG winter outlook which will be finalised at the next AGWG and submitted for a formal BoR opinion at the January BoR meeting.*
4. *The BoR provided by majority a favourable opinion on the ACER opinion on ENTSO-E's Network on Capacity Allocation and Congestion Management with a dissenting opinion of BNetZa.*
5. *The BoR welcomed the ACER preliminary opinion on the operational security network code.*
6. *The main results of the ACER performance exercise were presented.*
7. *The BoR had an update on the preparatory work on the EIP, Regional Initiatives and the last planning group meeting.*
8. *The BoR members welcomed the update on the current negotiation of the legislation on financial markets and the approach suggested in the note. They took note of the cooperation mechanisms envisaged between ACER and ESMA, NRAs and financial authorities in the context of REMIT.*

**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 23<sup>rd</sup> BoR meeting

### BoR Decision agreed: (D 2)

*The 23<sup>rd</sup> BoR minutes were approved.*

## 1.3 Update on ACER activities

The Director reported on his recent contacts with Switzerland. Cooperation with Switzerland regarding REMIT is put on hold for the time being as the Commission has indicated that this cannot be pursued separately from the negotiations of the EC with the Swiss authorities on the implementation of the Community acquis including the REMIT Regulation.

The Director gave a presentation on the activities of the Agency and staff recruitment. Regarding personnel, out of a total of 59 in the establishment plan for 2012, currently 56 are in office. There are also 9 posts under selection or advertised, some of which relate to the establishment plan for 2013. The current vacancies notices include a SNE on FG&NC Electricity, SNE on REMIT (4 positions), Senior Legal and Policy Officer, 2 Market Data Management Officers and one Legal Assistant.

On regulatory activities under electricity, the only pending is the ACER opinion on the ENTSO-E 2013 WP; for gas, the only pending is the ACER opinion on ENTSOG 2011 Annual Report, ENTSOG 2013 WP, and winter Supply Outlook.

Regarding REMIT, progress is on track with the release of the ACER Recommendations to the Commission on the Record of Transactions and the publication of the registration format as well as the 2nd ACER guidance in September. Regarding the Recommendations to the Commission on the Record of Transactions, support has been offered to DG ENER for evaluation of public consultation and further development of the REMIT implementing acts. The completion of pending issues of the Recommendations include the consultation of ENTSOs on records of transactions for balancing market and transportation contracts, the development and public consultation of draft technical reporting standards and the development and public consultation of draft ACER guidelines for RRM and RISs.

On IT system architecture and on procurement significant progress has been achieved. 3 tenders have been launched. Tender 1, on web applications development services and IT consultancy services for the implementation of REMIT Information System (ARIS) with 2 lots: Lot 1: Web application development, software maintenance and remote support to stakeholder services. Lot 2: IT specialised support and consultancy services. Tender 2 on IT infrastructure hosting services and Tender 3 on Market monitoring system for the Agency's REMIT information system (ARIS). These tenders have been issued between 14.06.2012 and 28/08/2012. All have been awarded and the contracts have been signed apart from Lot 2 of tender 1, where no award will take place as no bidder satisfied all the criteria.

Lastly the Director reported on the latest progress on the EIP. At the last dialogue 27 November, a political agreement was reached on the Regulation on Guidelines for trans-European energy infrastructure.

The Director informed the BoR members that ACER intends to organise an internal workshop with NRAs on ITC to discuss in depth the final Consentec report and the way forward. This has been fixed for 11 December in Ljubljana.

Regarding the 29 November joint event on the Market Monitoring Report the Director reported that we had panellists from the EC, BEUC, EFET, ENTSO-E and ENTSOG. The event was attended by around 100 stakeholders and was also live web streamed. There were 2 press conferences. The first MMR Report is now available on the ACER website. The reception was overwhelmingly positive.

### **Letter from the ITRE chair**

The letter by the ITRE chair was circulated. The ITRE chair has asked ACER to provide an opinion (on the basis of Article 4(c) of ACER Regulation (which provides that the Agency may issue opinions and recommendations addressed to the European Parliament, the Council, or the Commission) on capacity markets focusing on the following elements: Which are the new capacity and transmission and distribution needs with regard to the RES integration? How to ensure flexibility in power markets? What is the future of energy markets in a high RES system? Do we need capacity markets? The Director noted the particular importance of this first formal request we receive from ITRE.

The ITRE has also invited the Director to present the ACER WP 2014 before 31<sup>st</sup> May at the ITRE Committee. The time schedule for the Director's formal proposal on the WP to the BoR is 30 June, but of course some highlights/key priorities can be presented.

A meeting with the ACER contact group of ITRE is proposed twice per year (autumn and spring) again following up the Recommendation during the ITRE visit to the ACER premises on 28 August. The Director sought the BoR's feedback before formally replying to ITRE.

Members welcomed the letter and the invitation to prepare the Agency's opinion on capacity markets, the presentation of the 2014 WP to the ITRE and the biannual meetings with the ACER contact Group.

Ms Kloc noted that the letter is welcomed. On the forthcoming opinion of ACER to the ITRE on capacity markets, the EC is keen on coordinating with the Agency given also the Commission's on-going consultation on generation adequacy which ends on February. In the Commission's view, the discussion on capacity markets is also linked to network codes.

#### **1.4 Update from the Commission**

Ms Kloc reported on the recently published (on 15/11) IEM Communication with a set of accompanying supporting documents including: making the internal energy market work, an overview of energy markets in the EU, country reports and infringement procedures on the 2nd and 3rd energy package; a document on investment projects in energy infrastructure; the Commission's decision setting up the Electricity Coordination Group. The EC has also launched a public consultation on generation adequacy and security of supply.

She noted that the main highlights of the EC's Communication include *inter alia* the further development of well-functioning, cross-border, wholesale markets by developing network codes; that the Commission is pursuing, as a matter of priority, infringement procedures against those Member States that have not yet fully transposed the Third energy package Directives or have failed to do so correctly. The Commission intends to provide regular updates on the state of implementation of internal energy market legislation in individual Member States and on the infringement procedures. To this end it will send "ambassadors" to 10 Member States and organise a series of specific meetings to boost progress in transposition. The correct transposition of the third package will focus in particular on

unbundling as well as independence of NRAs. The consumers are another major focus and the Commission will facilitate Member States' exchange of best practices on key consumer-related issues, including price comparison tools, transparent pricing and billing, and elaborating the concept of vulnerable consumers.

The Commission is planning a conference in March on the Internal Energy Market Communication but will coordinate with ACER regarding the ACER conference.

## **2. ACER**

### **2.1 Revision of ACER WP 2013**

The Director reported on the prospect that there will be a reduction of €3 million in ACER's IT budget with respect to the estimate made by the Administrative Board in March, with a supporting opinion by the BoR. Therefore, next year ACER will start without the budget available for REMIT and EIP. If the reduction is confirmed, a revised work program for 2013 needs to be prepared. Despite the IT constrains the REMIT human resources envisaged in the REMIT fiche financier have been secured. As soon as the budget is available (and at the latest by 31<sup>st</sup> December) the Director will prepare a note assessing the situation and what is feasible under the resources available.

Ms Kloc noted that the Commission anticipates the budget adoption and at this stage no guarantee can be provided. After the budget is adopted, the Commission is willing to help securing the resources and hopes to be able to do an internal transfer for next year but the details of the specific budget lines are still to be confirmed. An internal transfer still has to be adopted by the Council and the EP.

Lord Mogg noted the EP ITRE committee support in securing the budget.

## **3. GAS**

### **3.1 FGs on rules regarding harmonised transmission tariff structures for gas**

Mr Boltz reported on the state of play: On 23 January a workshop on tariffs is planned in Ljubljana. The Agency has had a public consultation (PC) on the Tariff Structures Framework Guidelines (FG) which ended on 5 November 2012 followed by an Impact Assessment. We received 42 responses to the public consultation. The ACER will ask the EC to postpone the requested deadline (of December) to assess the issues from the PC. We will shortly send the official letter about the delay to March/April 2013 with IA published shortly after. This was already indicated at the last Planning Group meeting.

Ms Kloc noted that the EC would like to keep the delay to maximum 3 months to have the FGs ready to be presented to the Madrid Forum in April. The Director also noted that the April BoR is held back to back to the Madrid Forum it may thus provide a favourable opinion to the FGs and these could be subsequently announced in Madrid (in similar terms with the ACER opinion on Gas CAM NC).

### 3.2 ACER opinion on balancing NC

The network code was published on 26 October and ACER's reasoned opinion is due on 26 January. The Director reported on his contacts with ENTSOG. The intention is to issue the ACER reasoned opinion as soon as possible and - subject to the network code being revised quickly - we can subsequently (in January) issue an unconditional Recommendation to the Commission for its adoption.

He thus asked the BoR to launch an electronic procedure (before Christmas) for providing its formal opinion on the ACER opinion on the Balancing NC.

Mr Boltz stated that the NC is pretty much in line with the FGs and a few concerns where the code could be improved. As ENTSOG seem to agree that the points can be incorporated quite easy in the network code we may issue the ACER reasoned opinion to give the chance to ENTSOG to revise the NC (by January) which may allow us to have an unconditional Recommendation to the Commission for its adoption.

The main points raised relate to:

- The NC could be improved to reflect NRAs' roles in ensuring only efficiently incurred costs are passed through to consumers.
- The NC would benefit from less detail on the provisions around TSOs' neutrality mechanisms.
- The NC could be clearer in providing for a NRA role when defining terms and conditions for TSOs to reject nominations.

The Commission has also informed that it would be good if ACER and ENTSOG could find an agreed way forward on the remaining issues and welcomed the proposed approach.

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

*The BoR agreed to deliver its formal opinion on the ACER opinion regarding the Gas balancing NC through an electronic procedure. If ENTSOG agrees the revised NC soon after the Christmas, a possibly unconditional Recommendation to the EC can be adopted..*

### 3.3 ACER opinion on ENTSOG 2013 work programme

The Director reported that following a consultation process, ENTSOG submitted the 2013 work programme to ACER on 6 November. ACER's opinion is due by 6 January 2013. The draft opinion has been circulated to the BoR (for its formal opinion) and in parallel to AGWG unless substantial comments exist in which case the draft opinion will need to be further discussed at the AGWG meeting on 11 December.

The Director then presented the main points of the ACER draft opinion.

#### BoR Decision agreed: (D 4)

*The BoR provided by consensus a favourable opinion on the ACER opinion on the ENTSOG 2013 WP.*

### 3.4 Preparation of the ACER opinion on ENTSOG winter outlook

The Director introduced the draft ACER opinion for discussion which - in parallel - is circulated to the AGWG. Under the Gas regulation ENTSOG should present annual winter

and summer supply outlooks to ACER for its opinion. On 8 November, ENTSOG submitted its Winter Supply Outlook 2012/13 and Winter 2011/12 Review. This document analyses the flexibility of the European gas network's flexibility under high daily demand conditions.

Mr Boltz confirmed that at this stage there are no substantive comments by the AGWG members but that this should be further discussed at the meeting next week.

BoR Decision agreed: (D 5)

*The BoR discussed the draft ACER opinion on the ENTSOG winter outlook which will be finalised at the next AGWG and submitted for a formal BoR opinion at the January BoR meeting.*

### 3.5 CAM Roadmap

Ms Poletti reported that a draft of the CAM roadmap was presented on 15 November in the second meeting with ENTSOG, TSOs, ACER and NRAs. The minutes of the 15 November meeting were circulated for information.

The draft is still being discussed with ENTSOG and will be shortly finalised and thus although it has not been circulated to the BoR, it is almost ready. It is expected that ENTSOG will discuss mid - January at their GA. The aim is to present the Roadmap at the January BoR. At the meeting ENTSOG presented the projects that are currently being developed in the area of CAM (implementation section). This part includes reporting on how current projects are implementing key provisions of the CAM NC, an implementation timeline per project, a map showing the geographical scope of the projects and a review of implementation challenges. The different pilot projects include the joint Capacity Platform Initiative (to which four new TSOs from Austria and Italy will be confirmed as shareholders on 1<sup>st</sup> January 2013) and other projects involving Portugal-Spain, Germany-Poland, Austria-Italy, Hungary - Romania, envisage different products for auctions.

Mr Boltz reported that Ms Neveling, vice-chair of the AGWG, will step down at the end of January. The AGWG chair will coordinate on candidates to succeed her with the Director.

## 4. **ELECTRICITY**

### 4.1 ACER reasoned opinion on CACM NC

The CACM NC was submitted by ENTSO-E on 27 September, ACER has until the 27 December to finalise its reasoned opinion.

Mr Crouch reported on the overall planning, status and process for all the NCs, the calendar and the description of the reasoned opinion process.

Mr Koch noted that, in the Commission's view, ACER can issue a "qualified recommendation" when it gives an opinion on a network code despite having some remaining doubts on the ENTSO-draft. It is at ACER's discretion to send a code back to ENTSOs or to issue a "qualified recommendation" to the EC. There is no difference in this respect between the first submission of a code by the ENTSOs and the second submission (after ACER's initial reasoned opinion). In general, unnecessary delays in the process

should be avoided, especially in case ACER is not satisfied with the draft submitted by the ENTSOs.

Mr Crouch then presented the draft ACER reasoned opinion: It lists 11 specific areas in which the CACM NC is not in line with the FG. The draft formal opinion requests ENTSO-E to address the 11 specific concerns before re-submitting CACM NC.

Regarding the next steps, the Project team is working on wording proposals for most issues. If the BoR gives a favourable opinion, this can be adopted and published next week.

*BoR Decision agreed: (D 6)*

*The BoR provided by the requested majority a favourable opinion on the ACER opinion on ENTSO-E's Network Code on Capacity Allocation and Congestion Management with a dissenting opinion of BnetZA.*

4.2 Operational security network code – ACER preliminary opinion

Mr Crouch presented the ACER preliminary opinion: ENTSO-E consultation finished a month ago and they have to formally submit the NC to ACER by 1<sup>st</sup> March 2013. ACER will provide its opinion within 3 months by 1 June 2013.

A draft preliminary opinion was circulated. Many of the issues are raised in the context of the other NC. Contacts with ENTSO-E have been good but the areas of concern still remain. Therefore the key time to resolve issues if possible is now. The project team has had significant engagement with ENTSO-E to date, including the letter from ACER Director of 30 August, and trilateral discussions including EC are being held.

*BoR Decision agreed: (D 7)*

*The BoR welcomed the ACER preliminary opinion on the Operational security network code.*

**5. Cross-sectoral**

5.1 Assessment of ACER performance

Mr Hilbrecht presented the background for this exercise: The Agency has been in formal operation for 18 months and before it has been undertaken preparatory work by ERGEG “as if the Regulation were already in force”. The Director was formally appointed in May 2010 and took office in September 2010. The Director has now commissioned a performance assessment by an independent consultant and Mr Hilbrecht was selected through a negotiated procedure.

The list of interviewees included stakeholders (ENTSOs, Eurelectric, Eurogas, and power exchanges), EC and EP, and NRAs. The mandate of Mr Hilbrecht included the preparation of conclusions and recommendations.

The ACER performance has been assessed on the basis of 16 specific questions and Mr Hilbrecht presented the main findings.

Lord Mogg thanked Mr Hilbrecht for the presentation of the results. He noted that the Director is to be commended for undertaking this exercise which only reinforces



transparency and reflects a best practice in the overall operation of the Agency. There are clearly messages for the Director and the BoR and the Chair intends to come back in a more structure way at the next meetings to pursue this discussion on the basis of a paper. We need to recognise the positive messages that the Agency delivered and its performance is well rated by stakeholders. We should also assess the results in an open manner, allow a constructive self-criticism and seek improvements independently of our own judgments.

## 5.2 Report on the Planning Group meeting

The Planning Group meeting took place in Florence on November 20th. Mr Koch presented the main highlights. Regarding the legal issues, the Commission clarified that the network codes will by default be adopted as separate Commission Regulations but the Commission would seek to introduce a provision in all NCs Regulations to state the following: "This Regulation has been adopted as a supplement and forms integral part of the Electricity and Gas Regulations therefore the references to the electricity and gas Regulations shall be understood as applying to these Regulations. This relates to all issues, e.g. Peer reviews, penalties etc..."

Regarding the improvement of coordination following the submission of the NC to ACER for its opinion there will be a state of play meeting 6 weeks after submission of NC (within the 3 month period) to discuss with ENTSOs and the EC the draft ACER opinion and/or Qualified Recommendation to the EC. Early contacts should be pursued to avoid delays.

Also a session will be held on the lessons learned in the New Year. We need to see the next steps and calendar for this exercise.

On Gas CAM, the EC envisages the first Comitology meeting on 24 January. On electricity transparency guidelines there is a 17 December Comitology meeting scheduled and the EC hopes to get this adopted quickly in December.

The update on the FG/NC has been provided under the specific item and the minutes of the planning group meeting have been circulated.

The next Planning group is set for 25 January.

Mr Boltz also supported early contacts before the formal adoption and submission of the network codes.

## 5.3 Energy Infrastructure Package

Ms Kloc reported on the third triologue meeting on 27 November which reached a political agreement following which the Regulation is expected to be adopted at the Council on 3 December. She also noted the main changes with respect to the previous texts including the binding (not indicative) time limit for statutory permit granting procedure (following pre-application procedure) which increased to 18 months.

The full procedure may take 3 years and 6 months (plus 9 months extension possible).

Mr Moelker and Mr Boltz presented the draft notes under preparation by the AEWG and AGWG on the collective NRAs' input and some preliminary findings from this preparatory exercise.

Lord Mogg noted that it is very important that we do not lose momentum despite the concerns and the weaknesses of the process. There is also a clear need for clarity from the EC on the transition towards the formal process following the entry into force of the Regulation. Now that the Regulation is adopted we need to have a clear timeline from the Commission's side. We hope to be able to address those uncertainties at the meeting on December 18<sup>th</sup>.

Ms Kloc noted that the Commission is keen on analysing the collective input from AEWG and AGWG and the meeting on 18 December will be useful to allow the discussion on the input from NRAs and address clarifications and the problems phased. Ms Kloc noted that the agenda of the meeting on 18 December will be circulated shortly.

#### 5.4 RI annual status review

Mr Gence-Creux reported on progress on intraday and dispute resolution process: The last Florence Forum dealt with Electricity regional initiatives by welcoming the work on implementing day-ahead market coupling, expressed concern on delays in NWE project and urged speedy progress including in SWE region. It suggested ACER to get involved in dispute resolution procedure on IT tender deadlock, and the Commission will hand project to ENTSO-E if deadlock is not resolved. If ACER will play a role in the dispute resolution process we need to count on the NRAs' involvement.

On the Regional Initiatives Status Review, Mr Gence-Creux and Ms Poletti reported after a first round of comments, a revised version has been sent to the ERI and GRI coordination groups for comments until Wednesday 5th December.

## 6. **Market Integrity and Transparency**

### 6.1 Update on progress

Mr Braz gave an oral update on progress of work of the AMIT WG including:

- The preparation of the ACER Guidance where work has already commenced on the 3<sup>rd</sup> edition with updates to focus on REMIT registration issues.
- ACER has published its detailed recommendations to DG ENER on the REMIT transaction reporting regime. This was held while DG ENER is running its own consultation which is 'very high level'. ACER will not be responding to the consultation.
- For the IT Infrastructure, ACER has put out 3 tenders, as reported by the Director under the ACER activities.

Mr Braz also noted that Ms Gall (CRE) became a co-chair of ACER MMG TF and Mr Villaplana (CNE) was appointed as the co-chair of ACER WMS TF.

### 6.2 Follow up of legislation on financial markets

Mr Braz presented the note providing an update to the BoR concerning the potential impact of MiFID review on energy markets and on the application of Regulation (EU) No 1227/2011 (REMIT). The MiFID review is still on-going until early 2013. Following conclusion in the Council, discussions will proceed in trialogue format and are expected to extend into at least the second quarter of 2013. The note considers the impact on energy market trading of

proposed MiFID II exclusions defined on both a per product basis and the exclusions that relate to the market participant.

The primary concerns are based upon two key changes proposed under MiFID II: A change to the definition of a 'financial instrument' to include derivative products that can be physically settled and are traded on a new designation of Organised Trading Facilities (OTFs) (previously this only included those products traded on regulated exchanges and Multilateral Trading Facilities (MTFs); and the removal and/or tightening of exemptions relating to the 'ancillary business' test, 'commodities firms' and 'persons who deal on own account'.

As the Council is currently still debating the MiFID II text and therefore is the only entry point for new proposals, Mr Braz suggested that NRAs support the proposals included in the note. *The BoR members welcomed the approach suggested.*

### 6.3 Cooperation between ACER and ESMA, NRAs and Financial Authorities

Mr Braz introduced this note: There are several references in REMIT to the cooperation between ACER and other parties, but no strict requirements on implementation. ACER is seeking to formalise such arrangements by proposing the following cooperation arrangements: Between ACER and ESMA (and/or financial authorities in each member state), considering a bilateral or multilateral MoU to cover cooperation, information sharing and professional secrecy. Between ACER and NRAs considering multilateral MoU to cover cooperation, information sharing, operational reliability and professional secrecy. Between ACER and energy exchanges, considering multilateral MoU to cover cooperation in monitoring breaches, continuous cooperation on market monitoring principles and professional secrecy.

ACER will continue to work closely with NRAs, organised market places and ESMA representatives for the purpose of finalising the MoUs. Recent cases indicate that MoUs with other authorities are becoming more and more urgent, including potential MoUs with non-EU authorities. ACER's target is to finalise the above-mentioned MoUs in the first half of 2013 and seeks NRAs' support in achieving this objective.

*The BoR members took note of the note.*

## **7. Implementation, Monitoring and Procedures WG**

### 7.1 Update on progress

Mr Woszczyk reported on the Agency Review (art 7.4) paper under preparation. The EC has now explained that Network Codes will be adopted as separate Regulations but that the references of the Electricity and Gas Regulations and thus Article 7.4 should still apply.

Mr Woszczyk clarified that consensus was not reached at the AIMP on the issue of the scope and thus they decided to leave this discussion open for the BoR. The draft peer review paper is being finalised and will be presented to the January BoR.

Mr Woszczyk reported also on the monitoring of Network Code implementation paper.

## **Part B: Items for Information only**

*These items will not normally require an oral report at the BoR (unless the agenda indicates a rapporteur) and are for Members to take note and/or ask questions*

### **8. Electricity**

#### **8.1 Report on Florence Forum**

The 23rd Florence Forum was held on November 21st and 22nd and the conclusions were circulated. Regarding CACM NC, the Forum concludes that detailed rules on capacity calculation need to be developed as soon as possible and asked for more detail on the development of the Governance Guideline and implications for CACM. The EC will report on progress at the next FF.

Regarding Loop-flows, the Forum asked TF on cross border re-dispatch to further investigate the relationship between internal and cross-border re-dispatching.

The Forum also emphasised the key role of the Network Codes for the realisation of the Internal Energy Market. It stresses the need for joint efforts of all concerned parties to overcome the difficulties in the process of Network Code development. The Forum welcomed the involvement of stakeholders already in an early phase of the Network Code development process. It called for consistency of all Network Codes, including the supporting documents. The Commission, ACER and ENTSO-E will assess the lessons learnt and report at the next Florence Forum (2013).

Mr Koch mentioned that the Commission needs to consider any changes appropriate to the format for the Florence Forum. Currently it seems that the Forum participants' awareness of the issues differs.

He also remarked that going forward the discussion on the codes should be linked also their early implementation through the RI.

#### **8.2 Report on the revision of the NC RfG**

Mr Crouch reported that an ENTSO-E RfG User Group meeting was held on 22 November to discuss the next steps where a number of stakeholders called for small stakeholder groups to be established to cover each of the areas in the opinion. ENTSO-E will now consider their next steps in light of User group comments and discussions with the ACER project team. The Commission is pushing for a tight timescale and hope that the necessary amendments or improved justifications can be made by February.

#### **8.3 DCC preliminary opinion – progress report**

Mr Crouch reported that ACER wrote to ENTSO-E on 23 October highlighting three priority issues which it expects to be addressed before the code is submitted to ACER on 5 January 2013. The Demand Connection Code (DCC) is currently being re-drafted by ENTSO-E following the close of the public consultation on 12th September. In recent drafts, there remain a number of major issues that have not yet been addressed completely. The DCC is expected to enter ENTSO-E internal clearing processes by the end of this month, before submission in the New Year (5 January 2013).

#### 8.4 Report on the electricity cross border committee

Mr Crouch reported on the main topics of the meeting which were:

- Winter Outlook.
- Overview of upcoming electricity Network Codes/Guidelines and update on timeline
- Presentation of draft Transparency Comitology Guideline.
- Presentation of the draft Network Code on Requirements for Grid Connection for Generators.
- Presentation of the draft Network Code on Capacity Allocation and Congestion

### 9. Others

#### 9.1 Next meetings 2013

##### January 2013

Wednesday 9 15:00-16:00 Coordination Meeting Virtual – to be confirmed

Tuesday 29 CEER Annual Conference

Wednesday 30 14:00-18:00 BoR Brussels

#### 9.2 Latest AB decisions

No AB decisions were circulated.

The Director reported on the ACER conference currently envisaged on 21 March. The date is to be confirmed pending the confirmation of the Commissioner's attendance. He invited any suggestions on the topics by the members before the end of the year.