

20th ACER Board of Regulators meeting
Tuesday, 10 July 2012, from 09.00 to 16.00
Diamant Conference Center

Minutes

Participants

Member States	Name¹	Member States	Name
Austria (E-Control)	A: Dietmar Preinstorfer	Latvia (PUC)	O: Lija Makare excused
Belgium (CREG)	A: Koen Locquet	Lithuania (NCC)	A: Vygantas Vaitkus excused
Bulgaria (SEWRC)	A: Angel Semerdjiev Excused	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Georgios Shammas	Malta (MRA)	A: Anthony Rizzo
Czech Republic (ERO)	O: Eva Jelinková O: Miroslav Belica	Netherlands (NMa)	A: Geert Moelker O: Menno Van Liere
Denmark (DERA)	O: Markus Hübner	Poland (URE)	M: Marek Woszczyk O: Danuta Sierocińska
Estonia (ECA)	O: Tiina Maldre	Portugal (ERSE)	O: Jorge Esteves
Finland (EMV)	M: Riku Huttunen	Romania (ANRE)	M: Niculae Havrilet A: Lusine Caracasian
France (CRE)	O: Michel Thiollière O: Aude Le Tellier	Slovakia (RONI)	M: Jozef Holjencik Excused
Germany (BNetzA)	A: Annegret Groebel O: Daniel Mütter	Slovenia (AGEN-RS)	A: Jasna Blejc
Greece (RAE)	M: Michael Thomadakis, excused	Spain (CNE)	A: Tomás Gómez O: Rodrigo Escobar
Hungary (HEO)	A: Gábor Szörényi Excused	Sweden (EI)	M: Yvonne Fredriksson
Ireland (CER)	M: Dermot Nolan	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch
Italy (AEEG)	M: Valeria Termini A: Clara Poletti O: Miranda Diana		

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

Observers	Name
ACER	Alberto Pototschnig, Fay Geitona
European Commission	Inge Bernaerts, Kristof Kovacs, Catharina Sikow, Chrysoula Argyriou, Kamila Kloc
CEER	Natalie McCoy, David Haldearn

Main conclusions from the meeting:

<p>1. The AGWG will finalise the FGs on Harmonised Gas Transmission Tariff Structure before the end of the month taking account of the BoR discussion and any additional comments the members wish to submit. The proposal by the Director to the BoR members is expected by 10th August allowing for comments between 10th August–21st August. The definitive proposal by the Director will be circulated by 22nd August in time for the BoR meeting on 4 September which will have an orientation discussion.</p>
<p>2. The BoR members provided by consensus a favourable opinion on the FGs on Interoperability and Data Exchange Rules for the European Gas Transmission Networks.</p>
<p>3. The BoR took note of the progress and next steps on the preparation of the ACER opinion on the Network Code on Electricity Grid Connection, the FGs on electricity balancing and the ACER opinion on ENTSO-E TYNDP.</p>
<p>4. The BoR discussed the key issues to be covered under the 2nd ACER guidance on REMIT definitions which will be finalised and presented at the September meeting.</p>
<p>5. The BoR took note of the revised NC amendment paper which will be finalised in the light of the comments, presented at the next planning group meeting on 28 August and issued for consultation.</p>
<p>6. The BoR approved the revised RoP of the BoR with one addition in Article 6.8.</p>
<p>7. The BoR supported the draft 2013 ACER WP as proposed by the Director subject to the feedback to be received by the end of July by stakeholders.</p>
<p>8. The BoR endorsed the next steps on loop flows following the ACER workshop.</p>
<p>9. The BoR received an update on the EIP and Regional Initiatives.</p>

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 19th BoR meeting

BoR Decision agreed: (D 2)

The minutes of the 19th BoR meeting were approved.

2. Gas

2.1. Framework Guidelines on Harmonised Gas Transmission Tariffs Structure and draft report by the Consultants

Ms Neveling presented progress of work. The deadline for submitting the FGs is 31 December 2012 (the invitation letter by the Commission was circulated). Following ACER's scoping consultation earlier this year, the AGWG is now preparing the Framework Guidelines and Impact Assessment for consultation.

The Commission's invitation letter notes the importance of an IA and makes suggestions on the scope of the FGs which need to include principles on general costs allocation aspects (split of revenues between entry and exit points), reserve prices, revenue recovery, payable prices and transparency. The Commission would like to have the FGs applied to all entry and exit points.

Furthermore, the Commission suggests that on the basis of the IA ACER should further consider formulating principles on three areas (currently not covered by the FGs) incremental capacities, merging of entry and exit zones and use of locational signals.

Lord Mogg invited comments on the main issues. He is aware of the deadlines constraints and thus recommended that comments are sent in advance for the AGWG consideration (in July) to prepare an informed and mature discussion at the September BoR meeting in order to ensure that the ACER public consultation is launched immediately after.

BoR Decision agreed: (D 3)

The AGWG will finalise the FGs before the end of the month taking account of the BoR debate and any additional comments which the members wish to submit. The proposal by the Director is expected to be submitted by 10th August allowing for comments by the members between 10th August – 21st August on the basis of which the definitive proposal by the Director will be uploaded by 22nd August. The BoR will have an orientation discussion on 4 September.

2.2. Framework Guidelines on Interoperability and Data Exchange Rules for the European Gas Transmission Networks.

ACER needs to deliver the FGs by 31st July. They will be accompanied by an Evaluation of Responses still to be prepared by ACER and the IIA paper to be finalised (which do not need a reasoned opinion of the BoR).

With regard to the next steps, Lord Mogg noted the late circulation of the FGs and sought the members' agreement on retaining it in the agenda for a BoR reasoned opinion given the

deadline for the submission of the FGs which is the end of July. If this is not possible (and in case of divergence of views) he would invite the BoR to hold an orientation debate and, subsequently, launch an electronic approval for a reasoned opinion.

The Interoperability and Data Exchange Rules Framework Guidelines were presented by Ms Neveling and the Director.

6 areas are addressed in the FG: Interconnection agreements, Units, Gas Quality, Data exchange, Odourisation, and Capacity Calculation. The level of harmonisation in each area depends on the evidence of problems and stakeholders' feedback (Units is an area where full harmonisation is proposed, whereas gas quality a more case by case approach). Strict harmonisation is also proposed on data exchange. Capacity calculation it is also covered by the CAM NC so in these FGs transparency rules are set out. With regard to Gas Quality, the FGs do not suggest harmonisation but rather oblige TSOs to agree bilaterally so that any gas quality differences do not become barriers to cross-border trade. Regarding Interconnection agreements, the FGs provide for TSOs to reach agreements covering a minimum set of criteria on how to work together across interconnection points. On capacity calculation, the FGs reflect a strong emphasis on maximising capacity offered.

The Director noted that odourisation may represent a barrier to trade in the internal gas market. To address this he has proposed some amendments to the AGWG text in section 5 to reinforce the FGs.

BoR Decision agreed: (D 4)

The BoR members provided by consensus a favourable opinion on the FGs on Interoperability and Data Exchange Rules for the European Gas Transmission Networks.

2.3. Update on Gas Balancing and CAM NC

Ms Neveling presented the state of play. The preliminary opinion on the balancing network code was adopted at the BoR in June and submitted to ENTSOG alongside an independent report prepared by the consultants, the Brattle Group, assisting in this work. The ENTSOG public consultation on gas balancing was closed. Contacts with ENTSOG continue and the TF will meet with ENTSOG on 12th July to discuss these points and to understand how ENTSOG will incorporate the points made in the preliminary opinion. ACER will accept an invitation to present its key issues at a public ENTSOG workshop.

Regarding the CAM NC ENTSOG had a Board meeting to discuss the preliminary opinion. Contacts between ACER and ENTSOG continue. A fuller update will be provided at the September Board.

3. **ELECTRICITY**

Mr Crouch reported that Mr Moelker (NMa) will be formally proposed to the Director to take over the vice chairmanship of the AEWG.

3.1. ACER opinion on Network Code Grid Connection

Mr Crouch presented the state of play. ENTSO-E's consultation on the draft Requirements for Generation (RfG) Network Code (NC) closed on 20 March 2012. ACER issued its

preliminary opinion. A substantial re-writing of the NC has occurred to incorporate comments, and to develop several associated justification documents.

3.2. ACER preliminary opinion on the ENTSO-E TYNDP

Mr Crouch presented the state of play. The ENTSO-E TYNDP was released on 5 July (a letter by ENTSO-E was circulated). ACER has 2 months (until 5 September) to provide its opinion. The ACER's opinion on the 2012 TYNDP is currently under development. The BoR formal opinion will be sought in September.

The current TYNDP introduces much progress since the pilot TYNDP 2010 such as the elaboration of the Top-down approaches, the development of an EU 2020 scenario, market and grid modeling; the dissemination of market studies; the development of a multi criteria analysis.

3.3. Status of the preparation of the FGs on Balancing

A presentation was made by Mr Crouch. ACER published the Electricity Balancing Framework Guidelines (EBFG) for consultation on 24 April. The consultation closed on 25 June. 47 responses were received. The drafting team is working on the evaluation of responses and updating the EBFG and associated Impact Assessment. The final version of the EBFG will be submitted to the September BoR for the formal opinion.

Mr Crouch remarked that the EC study's final report on the IIA is expected on 31st September. The other relevant study to these EBFGs is the EC's study on Interactions between gas & electricity balancing markets which will be finalized earlier. He suggested that maybe some pressure is exerted to the consultants to bring their report on the IIA earlier as the time - schedule for the FGs is 4 September.

Ms Bernaerts took note. She saw value in having earlier the analysis of the consultant. She also noted that stakeholder consultation is very crucial particularly on the demand response.

3.4. Report on the ACER workshop on loop flows

Mr Gence-Creux (ACER) reported on the ACER workshop on Loop flows which took place on 28 June. The purpose of the workshop was to reach a common NRAs opinion on the urgency of the problem, possible remedies and priority of remedies. The key conclusions of the workshop were: The need to increase transparency on the loop flows; the recognition that the main cause of loop flows is the growing share of RES and insufficient network development and that the Loop flows negatively affect both network security and the social welfare; the need for a regulatory framework to compensate for currently inappropriate distribution of costs and welfare loss.

Regarding remedies: In the short term the coordination among TSOs should be enhanced as well as the optimal use of remedial actions through flow based congestion management.

In terms of long and midterm the following issues were *inter alia* discussed: placing phase shifting transformers; network reinforcement investments; the introduction of appropriate bidding zones; review of the ITC mechanism.

ENTSO-E is launching a pilot project for reviewing the bidding zones in the context of the Capacity Allocation and Congestion Mechanisms NC (Target Model).

Regarding the next steps, Mr Gence-Creux suggested:

- To prepare a Questionnaire with NRAs to provide data to ACER to monitor loop flows and assess impact of remedies.
- To establish a joint ACER/ENTSO-E TF to draft in July the principles of a cost compensation regime for optimal remedial action.
- To assess minimal guaranteed cross border capacities for the market (to be part of the EC study).
- To send a letter from the Agency with the workshop's conclusions for 'consultation' to ENTSO-E and the Commission.

BoR Decision agreed: (D 5)

The BoR members took note of the process and endorsed the follow-up approach as suggested:

- *A Questionnaire will be prepared by ACER with NRAs to provide data to ACER to monitor loop flows and assess impact of remedies.*
- *The debate will continue on how to modify the electricity transparency rules.*
- *The establishment of a joint ACER/ENTSO-E TF to draft in July the principles of a cost compensation regime for optimal remedial actions.*
- *The assessment of minimal guaranteed cross border capacities for the market (to be part of the EC study).*
- *Sending a letter from the Agency with the workshop conclusions to ENTSO-E, inviting them to progress the pilot project, copied to the Commission.*

Lord Mogg suggested having an update on this issue at the September BoR meeting.

4. MARKET INTEGRITY AND TRANSPARENCY

4.1. Progress on REMIT

The Director presented the REMIT implementation priorities both in terms of policy and IT issues. In terms of policy, these include the ACER Guidance (further editions); the registration format, the record of transactions and data sharing procedures. In terms of IT system, these include the registration, data collection and market monitoring.

With regard to policy issues the main uncertainty relates to the timing of the Implementing Acts. ACER's plan assumes their adoption by the end of Q3-13.

With regard to IT, ACER overall approach is to interpret pro-actively the "cooperation" role with NRAs and to share data as well as applications with NRAs willing to do so, allowing for more cooperation between the Agency and NRAs (at a lower cost for both).

IT peculiarities include the governance complexity (requirements will not be set by ACER, but mainly by the Commission through the implementing acts); the European variety (several different data sources, trading venues' practices, standards, formats, etc.) and the need for a

common standardisation or correspondence code mapping; the variety and complexity of fundamental data; the overall requirement on sharing data with NRAs in a secure and profiled manner; the close-to-real-time data collection and the front end national customisation particularly for registration.

The Director then presented the main modules of the ACER IT system. (a) Registration (two layers: national registers, European register); (b) Data collection (including interfaces with data providers – RRM); a main concern is the data cleaning and there is a need for high format standardisation for data quality; (c) Market monitoring which must allow for automatic alerts and “data mining” for investigations the profiled data sharing with NRAs and high security requirements; (d) Technical infrastructure.

4.2. 2nd edition of ACER Guidance on REMIT definitions – main issues

The Director presented the main issues to be covered by the second edition of the ACER Guidance on REMIT definitions (under Article 16 (1) of REMIT) which is a non-binding Guidance intended to help NRAs to carry out their tasks under REMIT in a coordinated and consistent way. The Director thanked the AMIT WG for their work.

The Director informed the Board that he intends to present the aforementioned options at a public workshop on 19 July 2012 in Ljubljana and invite feedback on these options by 31 July 2012.

The Director noted that discussions are taking place with ESMA.

The expected publication date for the finalised 2nd edition of the Guidance is October 2012.

BoR conclusion

The BoR took note of the key issues to be covered under the 2nd ACER Guidance.

5. **CROSS-SECTORAL**

5.1. Energy Infrastructure Package

Ms Sikow updated on the negotiations at the EP and Council.

The ITRE vote is postponed to 18th September.

Internally we have also set up a list with NRAs and ACER contact details and a library of documents relevant for each corridor. NRAs rapporteurs have been appointed for all priority corridors for Electricity, while the gas rapporteurs are pending.

Ms Sikow explained the necessity of the preparatory phase to allow later on for the adoption of the PCI list. The process will be adjusted when the Regulation is adopted. She clarified that both mature and non-mature projects will be considered as PCI given the intention to allow for the support for studies as well.

Regional Groups

On Regional groups and on-going process the EC is holding an info day on the PCI process on 17 July in Brussels. The EC has also launched a public consultation on the initial list of

projects that have been submitted to be considered as potential PCIs. The deadline for contributions is 20 September 2012.

The consultants contracted by the EC to assist in gas is Booz & Company. In Electricity ENTSO-E will assist in the preliminary assessment of the non - TYNDP projects; the consultant to assist in electricity is Ecorys.

5.2. Draft 2013 ACER Work Programme

The Director presented the draft work programme for 2013. No new Framework Guidelines will be developed, the focus will be on completing the process for the NC related to the FGs adopted in 2011 and 2012. ACER will continue with the monitoring activities and with the implementation of REMIT and its activities related to the energy infrastructure package.

In terms of the next steps, there will be a presentation of the ACER WP at the ITRE committee on 11 July and a lunch time presentation of both ACER and CEER work programmes. ACER will seek comments by the end of month (July). The EC will provide its opinion and the definitive proposal by the Director will be submitted to the September BoR for approval. The Director will come with a revised version by 10th August 2012.

Lord Mogg clarified that it is intended to have an orientation discussion at this meeting and sought members' broad agreement subject to stakeholders' feedback in order to prepare the September meeting which can then focus only on the new elements arising after the consultation.

Mr Crouch noted that ENTSO-E has also published their Work programme for consultation and we need to ensure alignment.

Ms Termini congratulated the Director on the 2013 ACER WP. She also welcomed the deliverable on the Guidelines for exemptions for new gas infrastructure.

Ms Bernaerts noted that the Commission will provide their official comments by the end of August including on the EIP. Some scoping work is also expected from ACER on areas such as incremental capacity.

Lord Mogg noted that the CEER have taken steps to streamline the calendar for the CEER 2013 WP with the ACER WP.

BoR Decision agreed: (D 6)

The BoR members endorsed the draft 2013 ACER WP. In the September meeting the BoR will approve the definitive version of the 2013 WP following stakeholders' input.

6. IMPLEMENTATION, MONITORING AND PROCEDURES WG

6.1. BoR RoP revision

Mr Woszczyk presented the modification to the BoR Rules of Procedures (RoP). A note was circulated outlining the rationale behind the proposed modifications on the BoR RoP which

mainly reflect the comments made at the last BoR meeting, the comments by the AIMP WG members and some of the comments from the EC.

The proposed modifications relate to the following issues:

- (1) Third countries participation in the BoR which depends on the specific modalities to be defined in the agreements of third countries with the Union (in accordance with the ACER Regulation).
- (2) Voting rules on the BoR with regard to ACER individual decisions considered for adoption.
- (3) Dissenting opinions incorporating the approach agreed at the previous meetings.
- (4) Regarding the Work Programme the modifications proposed simplify the process on the basis of experience.
- (5) Confidentiality arrangements – an additional option was proposed to allow members to exchange commercially sensitive information either within the NRA which they represent or with other NRAs, to the extent that all persons receiving such information are bound by equivalent confidentiality arrangements.

BoR Decision agreed: (D 7)

The BoR members approved the proposed modifications with the following addition in the Article 6.8 second paragraph: “The BoR chair may, where necessary, provide an indication of possible concerns during the process”.

6.2. Evaluation procedure for the NC amendment process

The Director presented this paper which is submitted to the BoR for information as the BoR does not have a formal competence to provide a positive opinion on such an issue. The paper now incorporates the modifications proposed by the EC and ENTSOs as follows:

- The call for evidence is deleted in order to shorten and simplify the procedure.
- The total review process (2nd stage) will last 6 months.
- An urgent procedure lasting 3 or 4 months is envisaged.
- Regarding the role ENTSOs, given their specific role in the NC preparation process and their specialised knowledge and expertise, the ENTSOs will be closely involved in the NC amendment procedure.

EWG and GWG have also been consulted on this paper.

The Director reported that ACER intends to undertake a consultation on the paper. The paper will be presented at the next Planning Group meeting on 28 August.

The discussion at the Planning Group meeting will also give to ENTSOs and the EC the possibility to react.

BoR Decision agreed: (D 68)

The BoR took note of the paper which will be finalised in the light of the comments and subsequently presented at the next Planning Group meeting and issued for consultation.

Part B: Items for Information only

7. Gas

7.1. GRI Quarterly Report - Q2 2012

The Director presented the second edition of the GRI Quarterly report. The purpose of the report is to monitor progress in the implementation of the pilot projects and areas of work planned in the Regional Work Plans, with a focus on the priority areas as determined by the Lead Regulators, under the guidance of the European Commission and ACER.

The report summarises all current regional and cross-regional work with a focus on the degree of implementation of the projects planned in the regional Work Plans. The report will be available in the new ACER website. The Director reported that the next GRI coordination meeting premises in Ljubljana on Wednesday 25 July.

On recent developments a meeting between ACER and ENTSOG is planned for the 26 July in Ljubljana, in order to discuss the elaboration of the Implementation Roadmap on CAM. As agreed in the last Madrid Forum, TSOs and NRAs have to work on a roadmap for the establishment of CAM pilots and platforms, for the early implementation of CAM NC provisions. ACER and ENTSOG are meant to supervise the process.

At regional level, the projects foreseen in the regional Work Plans are advancing and achieving tangible progress. In the South region, a pilot project for coordinated CAM between Portugal and Spain is about to come live. In the NW region, a study on implicit allocation has been carried out, and the regulators are discussing their possible application to the NW region. In the SSE region, the CAM pilot project between Austria and Italy seems to have regained momentum, and an interesting study on cross-border integration will soon be released.

8. ELECTRICITY

8.1. ERI Update

Mr Gence-Creux presented the ERI quarterly report and the latest developments. This now contains a section with the main insights.

Lord Mogg suggested that it is important to exert pressure on power exchanges. They need to realise that discussions could not go on for ever.

Lord Mogg reported that we have scheduled a long discussion on RI for the September BoR. Given the ACER coordination role, ACER will produce a comprehensive analysis tracking progress on the basis of which the lead regulators should contribute and respond at the September BoR.

8.2. Report on Electricity Coordination Group, 21 June, 2012

Mr Crouch gave an update. The Electricity Coordination Group dealt with the following issues:

1. Loop Flows and the outcome of the high level 19th March High Level conference:
 - Implementation of flow based capacity calculation.
 - ACER and EC soon to launch loop flow study (in July).
 - Re dispatching and cost compensation schemes – use CEE TSOs short term measures.
 - Loop flow ACER workshop on 28 June.
 - High level conference in autumn where EC intend to discuss action plan. ACER should collaborate with NRAs on this issue.
2. Capacity Mechanisms – Very good presentation by the French Ministry.

It was generally acknowledged that these can bring benefits but risks were also noted of destroying investment signals and distort cross border trade. Ensuring generation adequacy in a low carbon electricity system is prompting a lot of debate in Europe. It was concluded that there is now the need to have a stock taking exercise looking more holistically to RES, intermittency, capacity mechanisms; on the basis of the ACER and ENTSO-E internal work we should try to have a discussion on the basis of a paper by the next Electricity coordination group.
3. Notification of Investment Projects – The EC staff working paper is expected in October part of the internal energy market Communication Package.
4. RES – The EC will review the Emissions Trading Scheme and will issue 2 Guidance Docs on Support schemes and cooperation mechanisms. The EC will start work this year but the paper will be issued after the IEM Communication, practically not before 2013.

The next Electricity Coordination Group meeting will be held before the Commission's Communication on the internal energy market expected in October.

Ms Bernaerts reported that regarding the Internal Energy Market Communication, the Commission has started sending to each NRA the draft report for their country. It is based on the information contained in the annual reports prepared by each regulatory authority as well as on Eurostat data. The NRAs are asked to verify all data and information concerning your country included therein.

Lord Mogg questioned whether the BoR should be engaged and contributing to the IEM Communication. Ms Bernaerts welcomed this and said that the October meeting would be the right timing to include this item in the BoR agenda.

9. OTHER

9.1. Next Meetings 2012 and preliminary dates for 2013

- 11 July: CEER/ACER workshop on 2013 Work Programmes, 12.30-14.30, Brussels
- 66th Board, 21 August, 11:00-13:00, telecom
- 85th CEER GA, 3 September, 15.30 – 19.00, Ljubljana
- 21st ACER BoR, 4 September, 09.00-16.00, Ljubljana

9.2. AB Decisions:

4 Decisions were circulated: A decision to appoint Mr Jochen Homann (BNetzA) as the German member of the BoR as of 25 June. A decision to appoint Mr Niculae Havrilet as the Romanian member of the BoR. A decision to appoint Mr Moelker as the Dutch alternate of the BoR. A decision to appoint Mr Dialinas as the Greek alternate of the BoR.

Mr Preinstorfer recommended that BoR agendas include an update by the Director and the EC as well as on the ECRB developments.