

2nd ACER Board of Regulators meeting

Thursday, 10 June 2010, from 11.00 to 13.00 (CET)

Convitto della Calza, piazza della Calza 6, 50125 Firenze (room Franciabigio)

MINUTES

Participants

Member States	Name ¹	Member States	Name
Austria (E-Control)	M: Walter Boltz (BoR Vice Chair) A: Dietmar Preinstorfer	Latvia (PUC)	A: Ainars Mengelsons
Belgium (CREG)	A: Koen Locquet	Lithuania (NCC)	M: Diana Korsakaite
Bulgaria (SEWRC)	M: Angel Semerdjiev EXCUSED	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	M: Georgios Shammass	Malta (MRA)	M: Reuben Balzan A: Anthony Rizzo
Czech Republic (ERO)	M: Blahoslav Nemeček	Netherlands (Energiekamer)	A: Peter Plug O: Menno van Liere
Denmark (DERA)	M: Finn Dehlbæk	Poland (URE)	M: Marek Woszczyk
Estonia (ECA)	A: Kylli Haab	Portugal (ERSE)	A: José Braz
Finland (EMV)	M: Asta Sihvonen-Punkka	Romania (ANRE)	M: Petru Luficiu EXCUSED
France (CRE)	A: Philippe Raillon	Slovaquie (RONI)	A: EXCUSED
Germany (BNetzA)	M: Johannes Kindler	Slovenia (AGEN-RS)	M: Marko Senčar
Greece (RAE)	A: Michael Thomadakis	Spain (CNE)	A: José Sierra
Hungary (HEO)	M: Zoltán Matos excused	Sweden (EI)	A: Karin Widegren
Ireland (CER)	M: Michael Tutty	United Kingdom (Ofgem)	M: John Mogg (BoR Chair) A: Martin Crouch O: Michela Beltracchi
Italy (AEEG)	M: Alessandro Ortis excused O: Aurora Rossodivita (proxy)		

Invited	Name
ACER Director	Alberto Pototschnig

Observers	Name
European Commission representatives	Heinz Hilbrecht Tom Vanden Borre
Secretariat	Fay Geitona Una Shortall David Haldearn

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

Main conclusions from the meeting:

- 1. The Board of Regulators (BoR) received an update on efforts to set up the Agency, including offices and staff recruitment. The BoR supported the draft Multi Annual Staff Policy Plan 2010-2013 (MSPP) for ACER as envisaged by the Director, in particular recruitment of detached national experts with concrete regulatory experience and expertise.*
- 2. The BoR discussed the process and draft Agency work programme (WP) for 2011. The WP approval by the AB is foreseen for end-September 2010, following which it is transmitted to the European Parliament, the Council and the Commission.*
- 3. The BoR discussed the participation of 3rd countries in the BoR and the ENTSOs. Further discussions will take place between the European Commission and relevant parties on a way forward.*

1. Approval of the agenda

BoR Decision agreed: (D 1)

The agenda of the 2nd ACER Board of Regulators meeting was approved.

2. Approval of the minutes of the 1st BoR meeting

BoR Decision agreed: (D 2)

The minutes have been circulated and were approved by the BoR members.

3. Introduction of the ACER Director

The BoR Chair warmly welcomed Mr Alberto Pototschnig as the Director of ACER. The BoR Chair assured the Director that there is a genuine will by regulators to support ACER, to cooperate with the Director and to make ACER a success. Regulators have a keen interest to make sure that there is no interruption to the intense work undertaken by regulators during the interim period.

The European Commission congratulated Mr Pototschnig on his appointment.

The ACER Director recognised the work that NRAs are doing to prepare the ground for ACER (including on framework guidelines) and he committed to make all efforts to avoid any disruptions. He expressed his gratitude to ERGEG for its work and engagement in providing good drafts. In order to facilitate participation in the meetings, Agency WGs can meet in Brussels partly because there will be budget constraints on ACER. The BoR Chair offered the use of CEER's office for hosting meetings and offering lunches for the Agency WGs.

4. Update on the setting up of ACER

The Director reported on ongoing efforts to set up ACER at its permanent offices in Ljubljana. He met with Slovenian ministry officials and the local government is very positive. The Director is making progress on selecting premises. Recruitment of staff is underway (6 posts to date and more to be launched shortly). Posts for DNEs (detached national experts) will also be advertised.

The BoR Chair noted that there are many ways in which NRAs can help ACER both through the temporary agents who may come from NRA and will bring with them good knowledge and practices, especially if we get a spread from around Europe, as well as through DNEs. The DNEs will be very helpful especially in the early stage to supplement the temporary agents and to help complement the knowledge in-house.

Board of Appeal

The invitation for applications for the Board of Appeal will be soon sent out.

5. ACER staff plan

The Director informed the Members that he has been reviewing the Multi Annual Staff Policy Plan 2010-2013 (MSPP) for ACER, in particular are regards the grades for posts and the structure of ACER's organigramme.

The BoR welcomed the proposals which aim to ensure high qualified staff in these key positions. Regulators also warmly welcomed the increase in the number of detached national experts (DNE) posts. In respect of the seconded experts (DNEs), the BoR believe that they will bring expertise in regulation, which is much needed as ACER builds the competencies of its staff in the early stages.

In respect of the overall MASPP and the Organigramme (2010-2013), the BoR had a broad discussion and was of the view that the Organigramme should be as flexible as possible, particularly in its earliest stages of establishment.

The BoR Chair noted that the Agency Working Groups will bring together representatives from NRAs and the Agency staff and will prepare the work of the BoR. These Working Groups will deal with policies that will fall under the responsibility of the Agency and will start in March next year. The BoR committed to offer the fullest possible support in this work as requested by the ACER-Regulation. Given the budget constraints in travel expenses, the BoR may offer support in-kind to allow for Working Group meetings to take place at CEER offices in Brussels and will also offer lunches/meeting rooms etc for the Working Groups and expert group meetings, where appropriate.

In order to ensure collaboration between the Agency, the Commission and the ENTSOs and to maintain close contact with the European Parliament, the Director proposed to allow the possibility for a single post of Agency staff in Brussels (reflected in the relevant vacancy notice) to support the Agency Working Groups meeting in Brussels, even though most staff would be in Ljubljana. He also noted the Parliament's interest expressed at the ITRE Hearing to be kept fully in touch with ACER activities.

The BoR supported the Director's analysis and his proposal for a single post of Agency staff in Brussels.

The BoR supported the 2010 Establishment Plan and the modifications in relation to the staff organigramme. The Board mandated the BoR Chair to report to the Administrative Board setting out these views.

6. Draft 2011 work programme of ACER (input from BoR)

In accordance with the Agency Regulation, the Director must present a draft of the work programme of the Agency to the BoR, the Commission and the Parliament by 30 June. European energy regulators have prepared their input on the Agency's Work Programme to assist the Director in the preparation of a draft 2011 WP by end of June 2010. The draft Agency WP is based on the 3-year plan for framework guidelines and codes for gas and electricity, as presented at Florence and Madrid regulatory fora.

The European Commission commented that the 2011 WP could include a section on the structure of the Agency, WGs etc. It should also focus on the technical aspects and include other aspects such as performance indicators.

Following the preparation of the draft WP by the Director by 30 June, the Board of Regulators will approve it and present it by 1 September for adoption to the Administrative Board. The Administrative Board will finally adopt it before 30 September and transmit it to the European Parliament, the Council and the Commission.

The BoR took note of the Commission's comments. The input presented (focusing on the main areas of activities) will be developed by the Director into a draft Work Programme.

7. 3rd countries' participation in ACER

The BoR discussed options for the treatment of 3rd countries in ACER and the ENTSOs, to serve as input for further discussions with the Commission and the ENTSOs.

In respect of participation of 3rd countries to the BoR, in accordance with the Agency Regulation (Article 31), a 3rd country may only participate in the work of the Agency if an agreement is concluded between the 3rd country in question and the EU. Such agreements are negotiated by the European Commission on behalf of the EU and thus the BoR is not the decision making body. Nevertheless, the BoR recommends that the BoR be involved in the negotiations of such an agreement and provide views on the participation, particularly, in the work of the BoR. The Commission must consider the nature of the participation and whether full membership or observership for a non-EU country would be possible.

In terms of participation in the ENTSOs, there are some concerns around whether 3rd country TSOs do/don't apply unbundling and certification provisions as foreseen in EU legislation.

Further discussions with the EC and the ENTSOs will be undertaken.

8. Next Meetings

The BoR Chair proposed that given the intensive work load, there should be relatively frequent BoR meetings. The draft calendar proposes 10 BoR meetings in 2011.

9. AOB

The Commission confirmed that ERGEG's abolition will be announced in March.