

**6<sup>th</sup> ACER Board of Regulators meeting**  
 Wednesday, 2 March 2011, from 11.30 to 17.30 (CET)  
**ACER office, TR3 – Trg republike 3, 1000 Ljubljana**

**Minutes**

**Participants**

Member States	Name <sup>1</sup>	Member States	Name
<b>Austria (E-Control)</b>	A: Dietmar Preinstorfer O: Sarin Abado	<b>Latvia (PUC)</b>	O: Lija Makare
<b>Belgium (CREG)</b>	A: Koen Locquet	<b>Lithuania (NCC)</b>	M: Diana Korsakaite Excused
<b>Bulgaria (SEWRC)</b>	M: Angel Semerdjiev A: Iva Georgieva O: Evgenia Haritonova	<b>Luxemburg (ILR)</b>	M: Camille Hierzig
<b>Cyprus (CERA)</b>	M: Georgios Shammas	<b>Malta (MRA)</b>	M: Reuben Balzan Excused
<b>Czech Republic (ERO)</b>	M: Blahoslav Nemeček	<b>Netherlands (NMa)</b>	A: Peter Plug O: Robert Maaskant O: Debby van der Pluijm
<b>Denmark (DERA)</b>	M: Finn Dehlbæk	<b>Poland (URE)</b>	M: Marek Woszczyk O: Kamila Kloc-Evison
<b>Estonia (ECA)</b>	M: Märt Ots	<b>Portugal (ERSE)</b>	A: José Braz
<b>Finland (EMV)</b>	A: Antti Paananen	<b>Romania (ANRE)</b>	M: Iulius Plaveti A: Ioan Roman
<b>France (CRE)</b>	A: Philippe Raillon O: Michel Thiolliere	<b>Slovaquie (RONI)</b>	A: Nataša Hudcovičova
<b>Germany (BNetzA)</b>	M: Johannes Kindler O: Daniel Müther	<b>Slovenia (AGEN-RS)</b>	M: Marko Senčar A: Tomaz Lah
<b>Greece (RAE)</b>	M: Michael Thomadakis	<b>Spain (CNE)</b>	O: Rafael Gomez-Elvira
<b>Hungary (HEO)</b>	A: Csaba Kovacs	<b>Sweden (EI)</b>	M: Yvonne Fredriksson Karin Widegren
<b>Ireland (CER)</b>	M: Michael Tutty	<b>United Kingdom (Ofgem)</b>	M: John Mogg (BoR Chair) A: Martin Crouch O: Clémence Marcelis
<b>Italy (AEEG)</b>	O: Valeria Termini O: Fabio Tambone O: Miranda Diana		

Observers	Name
<b>ACER</b>	Alberto Pototschnig
<b>European Commission representatives</b>	Heinz Hilbrecht, Lukas Repa
<b>CEER</b>	Fay Geitona/Una Shortall

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

**Main conclusions from the meeting:**

1. *ACER will consult (by way of letter to relevant parties) on the ENTSO-E and ENTSGO statutes. Regarding the ENTSO-E statutes, following the BoR orientation debate and the public consultation, ACER shall formulate its opinion to the Commission.*
2. *Regarding electricity Capacity Allocation and Congestion Management (CACM), the framework guideline will be discussed at the AEWG and then be submitted to the BoR for an orientation discussion. The public consultation can then be issued the first half of April.*
3. *The BoR preliminary comments on the budget will be provided to the AB meeting the following day. Following the AB discussion the following day, the estimate of revenue and expenditure, including the draft establishment plan shall be transmitted to the Board of Regulators.*

**1. Approval of the agenda**

BoR Decision agreed: (D 1)

The agenda of the 6<sup>th</sup> ACER Board of Regulators meeting was approved.

**2. Approval of the minutes of the 4<sup>th</sup> BoR meeting**

BoR Decision agreed: (D 2)

The 4<sup>th</sup> BoR meeting minutes were approved by the BoR members.

Lord Mogg congratulated Mr Pototschnig and ACER's staff on the set up of ACER. Mr Hilbrecht and Mr Pototschnig thanked ERGEG for its work in the period of setting up ACER.

**3. Update on the Agency activities and public consultation processes**

**3.1. Draft FG Electricity Grid connection**

The ERGEG grid connection FG was published in December. There was an orientation discussion at the BoR meeting in February on the slightly revised ACER version and the consultation will be launched on 3<sup>rd</sup> March. Mr Hilbrecht confirmed that the letter to ACER on the electricity grid connection framework guideline is on its way.

With regard to the related network codes, the Commission is of the view that for each framework guideline (depending on the area) the ENTSOs should not envisage more than 3 network codes. Attention should be paid to the time schedule with a view to committing to the date of completion of the internal energy market (2014).

The ACER Director informed that the electricity Ad Hoc Advisory Group (AHAG) established following the December 2009 Florence Forum, will be preserved under the new title of Agency Stakeholder Advisory Group (ASAG) but with a different terms of reference. Its first meeting will be on 15 March in Brussels. Given the new timing (2014) for the completion of the internal market, ACER will ask ASAG to prepare a roadmap for implementation. The types of issues envisaged to be covered by ASAG include, inter alia, the single pricing algorithm, intraday, long term capacity allocation. The BoR members raised the issue that a

number of projects are already under implementation and thus the mandate and ToR of the ASAG should be clear as well as its scope. For gas no such group is planned for the time being.

### 3.2. Draft FG Gas Capacity Allocation

ERGEG had approved it in December. There was an orientation discussion at the last BoR on the Director's proposal and the public consultation on the framework guideline will be launched on 3<sup>rd</sup> March. The European Commission has sent a letter to ACER Director asking for the Gas Capacity Allocation FG to be completed by July. A workshop on the FG will take place in Ljubljana on 7<sup>th</sup> March. The public consultation will be launched on 3 March.

### 3.3. Staffing

ACER Director reported on the staffing issues. Today ACER has 12 staff. The deadline for the Head of Gas position is extended until 25 March. ACER is currently seeking Detached National Experts (with minimum of 3 years experience). Applications should be submitted by 15 April and the BoR members were encouraged to commit to submit candidates.

Lord Mogg reported that the Council of European Energy Regulators, through a letter from its President of 1 February 2011, has offered to support the Agency, in accordance with recital (20) of Regulation (EC) No 713/2009, with the provision of office space and secretarial and logistical support at their premises Rue le Titien, 28, B - 1000, Brussels, free of any rent, fees or charges, for the purpose of the establishment of the Agency's liaison office in Brussels.

## 4. **ENTSO-E statutes and RoP**

The last BoR had a first orientation discussion on the ENTSO-E revised statutes. The new statutes now establish a clear link between the certification procedure and membership in ENTSO-E. ENTSO-E have also introduced a sunset clause to address the situation of TSOs in Member States where implementation is delayed and of third country TSOs not bound by the Third Package. The Director reported that yesterday, ACER also received from ENTSG their statutes.

In terms of the process, the Director reported that ACER plans to consult (Art 5 of the Electricity/Gas Regulation provide that within two months of the day of the receipt, the Agency, after formally consulting the organisations representing all stakeholders, in particular the system users, including customers, shall provide an opinion to the Commission on the draft statutes, list of members and draft rules of procedure). ACER therefore envisages a limited consultation e.g. by way of a letter addressed to the relevant system users and consumers rather than a public consultation on the original ENSTO-E and ENTSG documents. Following the consultation ACER will provide its definitive opinion to the European Commission.

The BoR had an orientation discussion on the key points of the ENTSO-E statutes including on whether membership of ENTSO-E could be refused and admission to the ENTSGs should be automatic and not subject to conditions given that cooperation between TSOs in

ENTSOs is mandatory at least for the EU certified TSOs; the operation of Committees; and interpretation of network codes.

#### Conclusion

ACER will consult (by way of letter to relevant parties) on the ENTSO-E and ENTSEOG statutes. Regarding the ENTSO-E statutes, following the BoR orientation debate and ACER's consultation, ACER shall formulate its definitive opinion to the Commission.

### **5. Draft Framework Guideline on Capacity Allocation and Congestion Management (CACM) in electricity**

The Framework Guideline on Capacity Allocation and Congestion Management (CACM) was approved at the last ERGEG. The Commission are reviewing and, if satisfied, will soon send the FGs to ENTSO-E to start the network code process.

BoR members called on the ACER Director to have a discussion at the electricity working Group (AEWG) level on the proposed changes by the Director.

#### Conclusion

On the basis of orientation on electricity CACM, the framework guideline will be discussed at the AEWG and then be submitted to the BoR for an orientation discussion. The public consultation can then be issued the first half of April.

### **6. Preliminary Draft ACER budget for 2012 - Estimate of revenue and expenditure for 2012**

The Agency regulation provides that by 15 February each year, the Director shall draw up a preliminary draft budget covering the operational expenditure and the programme of work anticipated for the following financial year, and shall forward that preliminary draft budget to the Administrative Board, together with a list of provisional posts. Each year, the Administrative Board shall, on the basis of the preliminary draft budget prepared by the Director, make an estimate of revenue and expenditure of the Agency for the following financial year. That estimate, including a draft establishment plan, shall be transmitted by the Administrative Board to the Commission by 31 March. Prior to adoption of the estimate, the draft prepared by the Director shall be transmitted to the Board of Regulators, which may deliver a reasoned opinion on the draft.

Mr Potoschnig presented the draft budget of the Agency. From the 7, 598.775 Euro foreseen for 2012, much is on necessary operational expenditure (such as staff 4.894.080 Euro and around 500,000 Euro for Seconded National Experts). The Commission's REMIT proposals should once adopted involve costs for another 1,3 million Euro. The BoR suggested increasing the budget provisioned for mission expenses and external consultants. The Director confirmed that the BoR missions' expenditure will cover 8 BoR meetings given that two will probably be organised in the margins of the Madrid and Florence Fora. The Director confirmed that for the BoR meetings organised in Brussels the travel expenses of the BoR members will be covered (CEER will cover meeting room and catering costs).

ACER envisages that CEER continues to support the ACER WGs.

## Conclusion

The BoR preliminary comments on the budget will be provided to the AB meeting the following day. Following the AB discussion the following day, the estimate of revenue and expenditure, including the draft establishment plan shall be transmitted to the Board of Regulators.

## **7. Rules for ACER WGs/ WGs' chairs appointment**

ACER Director reported that yesterday ACER established 2 working groups – electricity (AEWG) and gas (AGWG). Following the recommendation of the BoR, the ACER Director has appointed Mr Peter Plug as chair of AEWG and Mr Walter Boltz as AGWG.

ACER Director informed the BoR that there will not be an ACER Regional Initiative WG; instead it will be coordinated directly by Ljubljana. He thanked CNE for chairing the ERGEG RIG working group and the work they had done on coordinating the regions at EU level. ACER will hold a first meeting with lead regulators, probably in April, on the way forward. The Director circulated for information the Decision on the Rules for the Functioning of the Working Groups of ACER.

## **8. Commission's proposal on the appointment of the members of the BoA**

The ACER Regulation provides that the members of the Board of Appeal shall be formally appointed by the Administrative Board, on a proposal from the Commission, following a public call for expression of interest, and after consultation of the Board of Regulators. The Commission's proposal is still under inter-services consultation therefore the proposal will be presented at a latter stage to the BoR for consultation and to the AB for decision.

## **9. Next Meetings**

It's been confirmed that the June BoR meeting will take place on 7 June in Brussels.

## **10. AOB**

### 10.1. Publication of the background documents and the agendas of the BoR meetings

Regulation 1049/2001 on access to documents of Agencies applies to ACER in accordance with ACER Regulation 713/2009. The ACER Decision AB n° 9/2010 on procedures and practical measures for applying Regulation (EC) No. 1049/2001 on access to documents of the Agency was adopted by the Administrative Board (AB). In line with this Decision to date the three first BoR meetings minutes have been published. The agendas and background documents should only be published after the relevant meetings.

The BoR will further reflect on practical elements of its implementation with regard to the BoR documents and those documents which fall under the exemptions of article 4 of Regulation 1049/2001 in accordance with the relevant provisions of the Decision and the Regulation. For consistency purposes it shall also check the practice in the AB with regard to

background documents. For the rest, art. 4(3) of Regulation 1049/2001 may well apply. In the meantime the agendas of all the previous BoR meetings will be published

**--- Introduction of the Administrative Board Chair, Mr Wozniak ---**

Mr Wozniak chair of the Administrative Board was grateful of the opportunity to introduce himself to the BoR members and wished the BoR and the Director good luck on the official start of the Agency the following day.