

90th ACER Board of Regulators Meeting

13 May 2020

By video/audio conference

Minutes final

Country/Institution	Name ^[1]	Country/Institution	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer O: Christine Materazzi-Wagner	Latvia (PUC)	M: Rolands Irklis A: Lija Makare
Belgium (CREG)	M: Koen Locquet A: Geert Van Hauwermeiren	Lithuania (NERC)	M: Irma Vasarytė
Bulgaria (EWRC)	A: Evgenia Haritonova	Luxembourg (ILR)	M: Camille Hierzig
Croatia (HERA)	M: Tomislav Jureković A: Sonja Tomašić Škevin	Malta (REWS)	A: Phyllis Mycallef O: Manuel Manuzzi
Cyprus (CERA)	O: Christina Zouvani	Netherlands (ACM)	A: Remko Bos O: Wieger Wiersema
Czech Republic (ERO)	M: Martin Šik O: Jana Haasová	Poland (URE)	A: Małgorzata Kozak O: Sierocińska Danuta
Denmark (DUR)	M: Carsten Smidt A: Mads Lyndrup	Portugal (ERSE)	M: Pedro Verdelho O: Natalie McCoy
Estonia (ECA)	A: Marilyn Tilkson O: Karin Maria Lehtmets	Romania (ANRE)	O: Florin Tobescu
Finland (EV)	M: Simo Nurmi A: Antti Paananen	Slovakia (RONI)	A: Denisa Lanikova O: Vlastimil Jurkuliak
France (CRE)	A: Jean-Laurent Lastelle O: Romain Charvet	Slovenia (AGEN-RS)	M: Duška Godina A: Bojan Kuzmič
Germany (BNetzA)	M: Annegret Groebel	Spain (CNMC)	A: Esther Espeja
Greece (RAE)	O: George Paidakakis	Sweden (Ei)	M: Anne Vadasz-Nilsson A: Caroline Törnqvist
Hungary (HEA)	A: Attila Nyikos O: Ádám Krinszki	EEA-EFTA State Iceland	M: Guðni A. Jóhannesson A: Hanna Bjorg Konradsdóttir
Ireland (CRU)	M: Jim Gannon	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Francesco Cariello O: Ilaria Galimberti	EFTA Surveillance Authority (ESA)	O: Anne De Geeter

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

ACER	Christian Zinglensen, Christophe Gence-Creux, Dennis Hesseling, Fay Geitona, Mitsuko Akiyama
European Commission	Guido Bortoni, Oliver Koch, Michael Schuetz
CEER	Charles Esser

1. Opening

1.1. Approval of the agenda

The agenda of the 90th BoR meeting was approved. The draft agenda has been sent to the European Parliament.

The Chair asked for declarations of conflict of interest. None was declared.

1.2. Minutes of the 89th BoR meeting

The minutes of the 89th BoR meeting were approved and sent to the European Parliament on 15 April.

Decisions/ Conclusions

1.1 The BoR approved the agenda.

2. Updates from the ACER Director, EC and BoR Chair

2.1. Updates from ACER

The Director informed the BoR regarding next steps in relation to the joint ACER-CEER downstream Market Monitoring Report (MMR), which currently comprises the ACER-CEER consumer protection, ACER-CEER retail and the CEER retail market performance reports. For this year and on a trial basis the three volumes will be merged into a single volume entitled 'ACER-CEER Consumer Energy Report,' and focus on the place of consumers in the electricity and gas markets from the consumer's perspective. Publication is envisaged in autumn around the publication date of the wholesale electricity and gas volumes.

The Director also briefly outlined the Agency's coronavirus exit strategy and informed members that all missions and physical meetings will, in principle, be replaced by virtual meetings until September, save in exceptional circumstances and subject to continuous reassessment in light of evolving circumstances. The EMIT Forum will also be a virtual Forum. Ms Groebel informed the BoR that the July GA and BoR meetings initially scheduled to be hosted in Bonn will be virtual given the current restrictions. The Chair also supported holding a virtual BoR meeting in July.

Mr Bortoni on behalf of the EC noted the importance of the retail market monitoring through the preparation of the ACER-CEER Consumer Energy Report to provide reliable indicators and data about retail market. The CEP introduced new measures on retail markets which require such data to assess their effectiveness.

The BoR exchanged information on the implications from the Covid crisis in the energy sector while the Director noted the full continuation of the REMIT surveillance activities referring also to the press release by ACER.

The BoR took note of the latest publications of the Agency since the last BoR meeting (31 March), as well as the outcomes of the following BoR electronic procedures:

The single-round electronic procedure for the approval of the revised BoR Rules of Procedure (RoP) concluded on 14 April. 27 members participated and unanimously approved the revised BoR RoP.

The two-round electronic procedure for the BoR favourable opinion on the opinion on ENTSO-E's draft 3rd guideline for cost benefit analysis (CBA) of grid development projects ended on 24 April. 26 members participated and the BoR favourable opinion was deemed to have been provided by the required two thirds majority.

The two-round electronic procedure for the approval of the Regulatory part of the ACER Annual Activity Report was launched on 30 April. 21 members participated in the first round and all agreed to the use of the electronic procedure. The second round concluded on 13 May: 27 members participated and approved by consensus the Regulatory part of the ACER Annual Activity Report.

2.2. Updates from the European Commission

Mr Bortoni on behalf of the European Commission (EC) presented the state of play in the preparation of the EC proposal for the EU budget for 2021: the European Commission is currently working on an updated proposal for the next multiannual financial framework (MFF), and inter-DG discussions regarding the 2021 budget are likely to remain on hold pending the adoption of the MFF, which also takes account of the current discussions on a post Covid-19 Recovery Plan.

Mr Bortoni gave an update on the public consultation on REMIT fees which shall be due to ACER under Article 32 of the ACER Regulation 2019/942 for collecting, handling, processing and analysing information reported by market participants or by entities reporting on their behalf. The public consultation will shortly be launched and will last for 12 weeks with a deadline before the end of August to allow the EC decision to be issued in early Autumn. There will be a stakeholders' workshop before or after the summer break. The BoR will be consulted on the EC's forthcoming decision pursuant to the ACER Regulation.

The BoR Chair welcomed the update on the REMIT fee model.

The Director thanked Mr Bortoni for the update, and urged the European Commission to consider the need to substantially reinforce ACER and for the draft budget to reflect the Agency's current tasks, which are crucial for promoting greater competition and security of energy supply for the benefit of all EU citizens, in line with the broader EU objectives.

2.3. Updates from the BoR Chair

The Chair informed members that the Review Panel (established at the March BoR) will be convened after the BoR to assess the Declarations of Interests and CVs submitted for the year 2020 by all BoR Members and Alternates, ACER Working Group Chairs, Vice-Chairs, and Task Force Convenors in accordance with the Agency's policy on the prevention and management of conflicts of interest.

The Chair also confirmed that the June and July BoR meetings (initially scheduled to take place in Brussels and Bonn) will be virtual meetings; members took note and suggested exploring tools for electronic voting.

Decisions/ Conclusions

2.3 The BoR agreed that the June and July BoR meetings will be virtual meetings

3. Keeping sight of the wider Energy Union context

3.1. Update on the EU Green Deal & Roadmap

Mr Bortoni presented the state of play of the current discussions on the key actions under the European Green Deal underlining the fact that these actions could be reviewed following the ongoing discussion on the Recovery Plan along with the corresponding changes to the 2020 EC Work Programme. A preliminary European Green Deal energy actions lists was provided at the meeting with the disclaimer that this needs to be cross-checked against the updated Work Programme for 2020 once it has been adopted by the Commission in the next couple of weeks.

Mr Bortoni provided an update in particular on the EU Strategy for Energy System Integration (non-legislative initiative in the form of a Communication mentioned in the Green Deal Communication as "smart sector integration strategy") and the revision of the TEN-E Regulation. His update encompassed some key elements illustrated in the Roadmap on the Energy System Integration Strategy and the Inception Impact Assessment for the TEN-E review, which were launched on the EC "have your say" website on 11 May to seek feedback from citizens and stakeholders over four weeks until 8 June.

The formal public consultation on the TEN-E revision which is expected to be published soon will have a deadline of 12 weeks after its launch. Stakeholder webinars are planned on the TEN-E revision in the course of June.

The Energy System Integration strategy aims to better link the different sectors in the EU (electricity, gas, buildings, transport, industry) to help them reduce carbon emissions. This means replacing fossil fuels with renewable electricity or with other renewable and low-carbon fuels where electrification is not possible, while ensuring energy remains secure and affordable. It thus aims to review energy system barriers and create links within the energy system and synergies between different sectors to attain the decarbonisation goals. Hydrogen will play a key role in this context.

Both initiatives explore opportunities to increase the use of (renewable and low-carbon) electricity via electrification of sectors that currently still rely on fossil fuels; the fossil-based gases and fuels need to be progressively replaced by renewable and decarbonised gases and fuels; a more circular energy sector as energy efficient as possible; removing barriers and upgrading market rules (including on gas); optimising a more digitalized energy infrastructure and its use.

The BoR sought clarifications on the dates and input sought, and updates on the sustainable finance report initiative and the interactions with TEN-E and with TYNDP, on the recent letters on gas TSOs' involvement in pilot projects on hydrogen to collect information at this stage and the need to look into the broader energy system needs when addressing also the issue of the infrastructure costs (e.g. including hydrogen development).

The Chair thanked the European Commission for their update.

The ACER Electricity Working Group (AEWG) Chair presented ongoing work on behalf of the AGWG and AEWG on the ACER-CEER position paper on the TEN-E revision. The paper under preparation builds on earlier ACER-CEER work complemented with new positions to reflect recent developments and should take into account specific consultation topics by the European Commission. Proposals for improvements are related to governance, procedures and scope of the Regulation (including *inter alia* scenario development, CBA methodology and TYNDP. Generally the role of ACER and NRAs should be strengthened, also in the areas of PCI selection, cross-border cost allocation, incentives and CEF financing, to tackle major barriers to the development of infrastructures with cross-border impact).

Members discussed the respective roles for scenarios and planning activities, the role of NRAs, the rectification of the CBA criteria, the need to address major barriers (although many are not regulatory) for infrastructure development and the alignment of the TEN-E Regulation with the goals of the Green Deal.

The BoR took note of the ongoing work of the AWGs on the position paper and the timeline for its approval.

4. Items for discussion and agreement on the use of an EP

4.1. ACER Decision on the methodology for a co-optimised allocation process of cross-zonal capacity

Pursuant to Articles 4(1) and 5(2)(h) of Guideline on Electricity Balancing (Commission Regulation 2017/2195), all TSOs were required to develop a common proposal for the methodology for co-optimised allocation in accordance with Article 40(1) of the same. The methodology must be approved by ACER within 6 months of receiving the all TSO proposal in accordance with Article 5(2)(b) of the ACER Regulation i.e. by 17 June 2020.

The Director summarised the state of play and main issues relating to the ACER Decision on the methodology for a co-optimised allocation process of cross-zonal capacity. The BoR discussed the key issues including the implementation deadline and the process to define the maximum volume of allocated

cross-zonal capacity for the exchange of balancing capacity or sharing of reserves in the scope of this EU-wide proposal including the relevant legal aspects.

The proposal will be finalised after taking account of the considerations and be submitted for a BoR favourable opinion.

The BoR agreed to the use of (two- or three- round) electronic procedure to provide its favourable opinion on the above decision by consensus of the members present or represented.

4.2. ACER Decision on the standard products for balancing capacity

Pursuant to Articles 4(1) and 5(2)(a) of the Guideline on Electricity Balancing, all TSOs were required to develop a common proposal for the standard products for balancing capacity in accordance with Article 25(2). On 17 December 2019, all TSOs submitted their proposal to ACER for revision and approval by 17 June 2020 in accordance with Article 5(2)(b) of the ACER Regulation.

The Director summarised the state of play and main issues relating to the ACER Decision on the standard products for balancing capacity. The BoR discussed the draft decision including the implementation deadline.

Following the discussion, the proposal will be finalised and will be submitted for a BoR favourable opinion.

The BoR agreed to the use of (two- or three- round) electronic procedure to provide its favourable opinion on the above decision by consensus of the members present or represented.

4.3. ACER Decision on the implementation framework for a European platform for the imbalance netting

Articles 4(1) and 5(2)(a) of the Guideline on Electricity Balancing require all TSOs to develop a common proposal for the implementation framework for a European platform for the imbalance netting in accordance with Article 22 of the same and to submit it to all regulatory authorities for approval. All regulatory authorities referred the present proposal to ACER, and a decision must be issued by 28 June 2020. The Director summarised the state of play and main issues relating to the ACER Decision on the implementation framework for a European platform for the imbalance netting (INIF). The BoR agreed to the use of a (two- or three- round) electronic procedure to provide its favourable opinion on the above decision by consensus of the members present or represented.

Decisions/ Conclusions

4.1 The BoR agreed to the use of (two- or three- round) electronic procedure to give its favourable opinion on the ACER Decision on the methodology for a co-optimised allocation process of cross-zonal approval by consensus of the members present or represented.

4.2 The BoR agreed to the use of (two- or three- round) electronic procedure to give its favourable opinion on the ACER Decision on the standard products for balancing capacity by consensus of the members present or represented.

4.3 The BoR agreed to the use of (two- or three- round) electronic procedure to give its favourable opinion on the ACER Decision on the implementation framework for a European platform for the imbalance netting by consensus of the members present or represented.

5. Cross-sectoral

5.1. Update on the preparation of the ACER RoP

The Chair updated members on the ongoing work to identify and address the 'missing links'. The Chair and the Director stated that this work is expected to complete by the end of the year as some flexibility is required given also the workload of the ACER legal experts. The Legal Team will pursue the work against the new timeline with regular updates to the RoP group and BoR; where substantive proposals emerge these will be discussed at each of the Boards. Members noted the need to plan the preparations to allow the finalisation of the formal process by the end of the year.

The BoR took note of the preparations and the planning.

5.2. Revision of the Agency Working Group (AWG) RoPs

The Chair introduced the discussion on the two open issues concerning the modification of the AWG RoPs.

Article 30(3) of the ACER Regulation provides that the AB shall adopt and publish internal rules of procedure for the functioning of the WGs on the basis of a proposal by the Director, after consulting the BoR and obtaining its favourable opinion. A revised note has been circulated consolidating the previously agreed modifications along with the proposals on open issues regarding the location of the AWG meetings and rules regarding the exchange of confidential information, following the steer by the BoR and the RoP Group.

The BoR and the Director provided further feedback on the need to facilitate virtual AWGs meetings and the minimum number of physical meetings to be held in Ljubljana.

The Chair noted members' agreement to the modification proposals contained in the circulated note subject to the open issue of meeting locations; she suggested that a number of virtual meetings should be facilitated in terms of efficiency, which would leave fewer physical meetings. The Chair suggested circulating a revised proposal for agreement to consolidate all proposals to serve as the BoR input to the Director and to the AB.

Decisions/ Conclusions

5.1 The BoR took note of ongoing work on the ACER RoP and the timeline for its adoption.

5.2 The BoR reached agreement on the outstanding proposals for modifications to the AWG RoP subject to the meeting locations. On the latter a proposal will be circulated for electronic approval to consolidate the BoR's input to the Director.

6. Gas

6.1. Important AGWG updates

Mr Verdelho as the AGWG Chair provided an update on the ongoing work in the ACER Gas Working Group and its Task Forces (TF). He gave updates relating to: PCI monitoring and selection; the creation of a new expert group on Energy Transition; the EC methane emissions workshop on 30 March with the next event scheduled for June; the ACER Opinion on reverse flow D-CZ; the Tariff consultation; preparations for the Madrid Forum; the appointment of the new Balancing TF Co-Convener Mr Wenz (BNetzA) and fraud issues examined by the Balancing TF; and issues raised by the FUNC Case reported by AGGM.

6.2. ACER Implementation Monitoring Report on Congestion at Interconnection Points

The Director and Mr Hesseling, Head of the Gas Department at ACER, presented the ACER Report on Congestion at Interconnection Points (IPs) prepared pursuant to paragraph 2.2.1(2) of the Commission Guidelines on Congestion Management Procedures (CMP GL).

The report identifies contractual congestion at IPs in the EU in the period under consideration (2019): the number of congested IPs has gone up slightly, however, less due to non-offer of standard capacity products, and more because of auction premia. About half of the congested IPs are already covered by the FDA

UIOLI; for the other half NRAs need to take action. Another question is for how long it would be useful for ACER to produce this report notwithstanding the legal requirements.

The report contains some recommendations for TSOs, ENTSOG and the European Commission, largely reiterating previous recommendations, and invites the research community and other interested parties to further explore contractual congestion to gain new insights into congestion in EU gas systems.

The BoR took note of the contents of the report.

7. Electricity

7.1. Important AEWG updates

Ms Materazzi-Wagner as the AEWG Chair provided an update on the ongoing work in the ACER Electricity Working Group, including regarding the discussions on the Bidding Zone Review methodology and the ACER 2-step approval process; the ACER/NRAs' validation of the PCI monitoring data and the report which is planned for the June BoR; the adequacy work (ENTSO-E methodologies on European resource adequacy assessment and value of lost load, the cost of new entry and the reliability standard) where the ACER decisions are due by 5th August.

The BoR and the Director also clarified the next steps on the ACER technical note on electromobility regarding the application of the Grid Connection NCs, which is intended as technical input for the expert group on storage of the Grid Connection European Stakeholder Committee with some readjustments of the text.

The BoR was informed on the public consultation launched on 11 May regarding a planned procedural clarification in four electricity guidelines by way of a Commission Implementing Regulation.

7.2. ACER Decision on the methodology for classifying the activation purposes of balancing energy bids

The Director and Mr Gence-Creux, Head of the Electricity Department at ACER, provided an update on the ACER Decision on the methodology for classifying the activation purpose of balancing energy bids including the open issues. Pursuant to Article 29(3) of the Guideline on Electricity Balancing, all TSOs must develop a proposal to describe all possible purposes for the activation of balancing energy bids from the common merit order list. This proposal should facilitate the integration of balancing markets and provide more transparency in the use of balancing energy bids.

The draft ACER Decision will be finalised for the June BoR, with a view to seeking the BoR's favourable opinion.

The BoR took note of the above updates and planning.

7.3. ACER Decision on the common settlement rules for all intended exchanges

Mr Gence-Creux updated members on the ACER Decision on the common settlement rules for all intended exchanges including on the open issues. Article 50(1) of the Guideline on Electricity Balancing provides that all TSOs must develop a proposal for common settlement rules applicable to all intended exchanges of energy, and the all TSO proposal was referred to ACER for decision on 14 January.

The draft ACER Decision will be presented at the June BoR, with a view to seeking the BoR's favourable opinion.

The BoR took note of the above updates and planning.

7.4. ACER Decision on harmonisation of the main features of imbalance settlement

Mr Gence-Creux gave an update on the ACER Decision on harmonisation of the main features of imbalance settlement including on the open issues. The all TSO proposal for further specifying and harmonising

imbalance settlement in line with Article 52(2) of the Guideline on Electricity Balancing was referred to ACER for decision on 14 January.

The draft ACER Decision will be presented at the June BoR, with a view to seeking the BoR's favourable opinion.

The BoR took note of the above updates and planning.

**Decisions/
 Conclusions**

7.1 The BoR and the Director clarified the next steps on the ACER technical note on electromobility which is intended as technical input for the expert group of the European Stakeholder Group with some readjustments of the text. The paper will be renamed as technical input and the wording will be readjusted.

7.2 The BoR took note of the state of play and timeline for the adoption of the ACER Decision on the methodology for classifying the activation purposes of balancing energy bids, and provided input.

7.3 The BoR took note of the state of play and timeline for the adoption of the ACER Decision on the common settlement rules for all intended exchanges, and provided input.

7.4 The BoR took note of the state of play and timeline for the adoption of the ACER Decision on harmonisation of the main features of imbalance settlement, and provided input.

8. Market Integrity and Transparency & Surveillance and Conduct

8.1. REMIT CG and AMIT WG updates

Ms Groebel, the AMIT WG Chair, provided an update on the ongoing work in the ACER Market Integrity & Transparency Working Group. The next REMIT Coordination Group and AMIT WG meetings will be held on 29 May. She also illustrated the importance of the continued REMIT market surveillance activities amid the covid crisis.