

76th ACER Board of Regulators Meeting

Wednesday, 18 July 2018

CEER premises, Cours Saint-Michel 30a, 1040 Brussels

Minutes (final)

Member States	Name ^[1]	Member States	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch	Italy (ARERA)	M: Clara Poletti (BoR Vice-Chair) A: Francesco Cariello
Belgium (CREG)	M: Marie-Pierre Fauconnier O: Geert Van Hauwermeiren	Latvia (PUC)	O: Lija Makare
Bulgaria (EWRC)	A: Evgenia Haritonova	Lithuania (NCC)	M: Inga Žilienė
Croatia (HERA)	M: Tomislav Jureković	Luxemburg (ILR)	M: Camille Hierzig
Cyprus (CERA)	A: Alkis Philippou	Malta (REWS)	A: Phyllis Micallef
Czech Republic (ERO)	A: Martin Sik	Netherlands (ACM)	A: Remko Bos O: Wieger Wiersema
Denmark (DERA)	M: Kimmie Byriel Laage-Petersen	Poland (URE)	A: Małgorzata Kozak
Estonia (ECA)	O: Külli Haab	Portugal (ERSE)	A: Alexandre Santos O: Natalie McCoy
Finland (EV)	M: Antti Paananen	Romania (ANRE)	O: Florin Tobescu
France (CRE)	A: Hélène Gassin O: Michaël Mastier O: Claire Hellich-Praquin O: Anne-Lise Teani	Slovakia (RONI)	A: Marian Záhora
Germany (BNetzA)	M: Annegret Groebel	Slovenia (AGEN-RS)	A: Bojan Kuzmic
Greece (RAE)	O: Nektaria Karakatsani	Spain (CNMC)	M: Fernando Hernández O: Gema Rico
Hungary (HEA)	M: Attila Nyikos O: Adam Krinszki	Sweden (Ei)	M: Anne Vadasz-Nilsson
Ireland (CRU)	M: Garrett Blaney (BoR Chair) A: Paul McGowan O: Seamus Byrne	United Kingdom (Ofgem)	M: Mark Copley
ACER	Alberto Pototschnig, Dr Jordan, AB Chair, Volker Zuleger, Fay Geitona, Sander Ramp		
European Commission representatives	Dominique Ristori, Florian Ermacora, Michael Schuetz		

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

MEETING CONCLUSIONS SUMMARY – 76th BoR, 18 July 2018

1. *The BoR approved the minutes of the 75th BoR meeting and the agenda of the 76th meeting.*
2. *The participants declared no conflict of interest.*
3. *The Director reported to the BoR about the Agency’s 7th Annual Conference which was held on 5 July in Kranj, Slovenia. The Conference was titled: “An Energy Union for all Europeans” and was well attended.*
4. *The Director reported on the Agency’s financial resources in the next financial period (MFF 2021-2027). ACER have just been informally notified by SRD on the “envelope” of the Agency’s subsidy under the next MFF as proposed by the Commission. It envisages an average of €13 million annually. This level is not sufficient to ensure normal operation with the current level of staff and responsibilities, let alone cover any additional tasks that the Agency might be assigned under the Clean Energy Package, for which we expect a separate financial statement.*
5. *Mr Ermacora provided an update on the negotiations on their proposal: “Clean Energy for all Europeans” as well as on the amended Gas Directive.*
6. *Ms Vadasz-Nilsson informed the BoR on a case that is pending in Sweden in the Administrative Court on the use of congestion income on the Baltic cable (interconnector).*
7. *The EC, the BoR Chair and the Director reported on the last NC IMG meeting that took place on 2 July. The meeting focused, among other issues, on updates on Implementation Monitoring work.*
8. *The BoR Chair informed the BoR that the proposal to organise a discussion to take stock of the new CEP framework at the September BoR (resulting from the BoR informal workshop in March 2018) will be postponed to October or later given that the trilogues have just started and a final agreed text by the Institutions will not be ready by September. **The BoR took note of the new timing.***
9. *The Director presented the final draft ACER Decision on the DA and ID Algorithm methodology, which was referred to ACER on 30 January 2018. A public consultation was organised between 26 April and 18 May (3 weeks). The Agency must issue its Decision by 30 July. **The BoR provided by majority of the members present or represented its favourable opinion on the ACER decision on the DA and ID Algorithm methodology with a dissenting opinion of BNETZA.***
10. *The Director presented the Agency’s Opinion on the Summer Supply Outlook (SSO) 2018 by ENTSOG ahead of the summer season. **The BoR provided by consensus of the members present or represented its favourable opinion on the ACER Opinion.***
11. *The Director presented the 2019-2021 Agency’s draft Programming Document (PD). Pursuant to the ACER Regulation, the AB shall adopt, before 30 September each year, after consulting the Commission and after having received approval by the Board of Regulators, the work programme of the Agency for the coming year. The Commission has given its informal feedback on the PD but their formal opinion is pending. **The BoR approved by consensus of the members present or represented the Agency’s draft Programming Document (PD) 2019-2021.***

12. *Mr Šik, LEN Co-Coordinator, presented the advice of the 4th LEN Panel pertaining to the Common Grid Model methodologies according to Arts. 67(1) and 70 of Commission Regulation 2017/1485 (SO GL), Art. 18 of Commission Regulation 2016/1719 (FCA GL), and Art. 17 of Regulation 2015/1222 (CACM GL). The LEN panel considered that it would be possible to have one legal consolidated CGM methodology with three different legal bases and that It would be possible for NRAs to request the creation of a consolidated CGM methodology by way of amending the three existing methodologies. However, the enforcement of such a request could prove difficult.*
13. *Mr Šik also provided an update on the status of the other ongoing assessments including on Balansys, and the involvement of exempted TSOs/NRAs in all NRA decisions.*
14. *Mr Copley provided an update on the ongoing work in the AEWG, and the discussions held on 29 June. The Group agreed to prepare a policy document, mapping EWG relevant topics for the short-term, medium-term and long-term. They agreed to the need for a common position on NEMOs governance which will be developed.*
15. *The Director presented the ACER Implementation Monitoring Report on the Demand Connection NC and the Requirements for HVDC Grid Connection NC whose purpose is to present the progress towards the implementation of the two NCs. **The BoR took note. NCC suggested some corrections in footnote 9. The Director invited the BoR to provide any comments as soon as possible given the report is being finalised for publication.***
16. *The Director informed the BoR with regard to the suggested approach to ask ENTSO-E for the relevant information for the System Operation GL & Emergency and Restoration NC monitoring. Given that the exact data required for implementation monitoring depends on some terms and conditions or methodologies currently being developed under the SO GL, the Agency intends to define the list of the relevant information by the end of 2019. **A letter to ENTSO-E reflecting the above considerations will be sent.***
17. *Ms Poletti provided a brief update on the functionality data exchange issue including the outcome of the informal Member States' meeting on 20th June. Ms Poletti also referred to the solutions endorsed by the AGWG with regard to the IO NC application to VTP as of 2020. She then reported on the new studies on gas. Last, she referred to the Allowed Revenues Report where work is delayed; the deadline for NRAs comments is 17 August and the report should be ready by April 2019.*
18. *Mr Ermacora reported that there will be a focus on gas in the coming year and the EC will launch a couple of studies and prepare Impact Assessments in anticipation of the new Commission end of 2019. He offered close collaboration with NRAs on the studies by the EC and NRAs.*
19. *The Director reported on the consultation the Agency is organising to collect information for its decision for the selection of a single booking platform at the German-Polish border. **The ACER decision on this matter will be submitted at the October BoR.***
20. *The Director reported that the Agency has carried out the analysis of the NL consultation regarding tariffs. The report is being finalised and will be sent next week to ACM ahead of its publication. Ms Poletti supported by Mr Bos invited the Director to share such reports with the AGWG in the future, where possible ahead of their publication, as this is a learning process for other NRAs.*

21. *The Director presented the Agency's third report on the implementation of the Balancing Network Code. The report analyses the functioning of the balancing regimes in seven countries during Gas Year 2016/17 and presents findings, recommendations and the next steps to deliver full implementation of the Code by the April 2019 deadline. The Agency takes note of the implementation delays and emphasises that Member States need to take necessary steps to meet the April 2019 deadline for full implementation. The report provides several recommendations.*

22. *Ms Groebel provided a brief update on the AMIT work. The last AMIT WG took place on 17 May and the next AMIT WG will take place on 6 September. Mr Zuleger provided a presentation on data quality projects and data collection and sharing. He noted the very limited ACER resources and that only few NRAs are active in data sharing with limited resources themselves. In terms of reporting, the second open letter on data quality will be published this week. Mr Zuleger concluded that a single point of data collection and unique ACER XML formats and ACER Guidance on transaction reporting are key success factors for REMIT data collection and sharing. There are indeed data quality issues, but reported data is normally human readable and/or understandable. Data quality priority is currently on standard transactions, inside information and transparency platforms, then on bilateral contracts and orders to trade and then other fundamental data. In terms of actions required by NRAs, request for input was recently renewed at REMIT CG level for the following reports: 001 - Registered MPs reporting: NRAs to provide feedback on ACER's reports. 009 - Timeliness of reporting: ACER is offering to provide information per NRA; 014 - EICs in fundamental data: NRAs to provide input.*

The BoR received an update and had a discussion with Mr Ristori, Director General DG ENER and Dr Jordan, AB Chair, with regard to the process for the appointment of the new ACER Director. An extraordinary meeting of the AB will be held on 23 July, and the BoR Chair will report on any further developments following that meeting.

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 subject to a reservation about agenda item 8.2. No conflict of interest was declared.

Mr Philippou addressed an issue relating to item 8.2 "ACER consolidated report on the progress of PCIs and to PCI 3.10 "EuroAsia interconnector". This is of great importance to Cyprus as it ends the islands' isolation and to Greece as it connects Crete to mainland Greece. Although in the previous BoR meeting it was agreed that this report would be submitted to the BoR for final comments before publication; it was not submitted and the report is on the BoR agenda today as an item for information only, under Part B. Moreover, correspondence up until a few days before publication shows that the PCI was labelled "Ahead of Schedule". Mr Philippou remarked that it is not clear to him why this was changed and that the report was then published with new expected commissioning dates for the parts of the PCI and are now labelled "delayed".

Mr Philippou requested that the commissioning dates be reviewed by ACER. As the promoter is currently going through a tendering process, it would make sense for assumptions to be based on the result of the tendering process and any discrepancies to be discussed with the promoter before such changes to the information (which was only known to them days before the publication of the report) can be accepted.

Ms Karakatsani stated that RAE considered that the ACER PCI consolidated report correctly reflects the delay in the project which RAE has identified. In any case, RAE considers that this delay triggers the activation of Article 5.7.c of the TEN-E Regulation. RAE has shared this view with DG ENER and they have adopted their interpretation. The Attica-Crete interconnection is really urgent due to significant Security of Supply concerns in Crete and unfortunately the PCI project promoter never submitted to RAE the required technical and financial evidence. Therefore, RAE is very concerned about the delay of the project.

The Director explained that the PCI report had to be published by the end of June and that, eventually, it was published with a delay. It has been checked at technical level but he will check again this issue. In substance, ACER has taken the view that it was most unlikely that this project would be commissioned by 2020. There is also a corporate issue. The EC undertook meetings with the concerned NRAs; if this project would be completed by 2020 ACER would amend the report. He invited the concerned NRAs to refrain from action until this issue is resolved.

1.2. Approval of the minutes of the 73rd BoR meeting

BoR Decision agreed: (D 2)

The minutes of the 75th BoR were approved.

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

2.1. Update on recent developments

a) ACER

➤ Report on the ACER annual conference (5 July)

The Director reported about the 7th Annual Conference of the Agency which took place on Thursday 5 July 2018. The Conference was well attended. The Conference was titled: “An Energy Union for all Europeans”. The Conference was structured in an opening followed by three sessions: 1) A Smart Future, 2) Coupling the Sectors 3) Pricing in the EU Energy Sector. Some of the opening remarks were delivered by Commissioner Miguel Arias Cañete (video message), and Commission Vice-President Maroš Šefčovič (live connection), and by Peter Gašperšič, the Minister of Infrastructure of Slovenia. The Commissioner and Vice-President placed particular emphasis on ACER’s achievements over the years which has prompted the EC to propose a reinforcement of its powers under the CEP. Opening remarks were also delivered by Ms Andrea Steinmetz, Deputy Head of Department at the Austrian Ministry for Sustainability and Tourism. A video by Mr Ristori was also shown before the closing session.

➤ ACER financial resources next financial period

The Director noted that ACER has just been informally notified on the “envelope” of the Agency’s subsidy under the next MFF as proposed by the Commission. It envisages an average of €13 million annually. This level is not sufficient to ensure even the normal operation with the current level of staff and

responsibilities, let alone cover any additional tasks that the Agency might be assigned under the CEP, for which we expect that there will be a separate financial statement.

In addition, the Director explained that for 2019 the EC proposal for ACER budget is far less than its needs:

- The Union contribution for 2019 amounts to a total of 16 147 153€.
- The proposed establishment plan contains a total of 67 temporary agent posts and 27 contract agents for 2019.

ACER's budget estimate on the basis of the AB decision (and the support of the BoR) amounts to €19.101.479 which covers its financial needs including 31 additional temporary agents leading to a total of 98 staff. MEP Geier has tabled an amendment on the basis of the ACER estimate which passed the ITRE vote on 10 July and the Director hopes that it will become the EP position following the vote at the Budget Committee in September.

Mr Blaney raised this issue also with Mr Ristori, and invited the EC to a dialogue on that matter.

➤ Forthcoming event and latest publications

The Director informed the BoR that registration has opened for the EMIT Forum to be held in Ljubljana in the afternoon of 6th September and the morning of 7th September.

The Director referred to the recent publications by ACER:

- The Agency Decision on the AQUIND exemption request (and the outcome of the electronic procedure). The second round of the electronic procedure ended on 19 June. 28 members participated: 25 voted in favour to a BoR favourable opinion, one member, OFGEM, voted against and two members, EWRC and PUC, abstained. The decision was adopted on 19 June.
- The Agency's consultation to collect information for its decision for the selection of a single booking platform at the German-Polish border.
- The Report on the progress of electricity and gas Projects of Common Interest for the year 2017.
- The Agency Opinion on the Manual of Procedures for the ENTSO-E Transparency Platform.

b) European Commission

➤ Update on Clean Energy Package proposals, Gas Directive amendments

Mr Ermacora provided an update on the Clean Energy Package. Political Agreement has been reached on four legislative acts: the RES Directive, the Governance Regulation, the Directive on the energy performance of buildings, and the Energy Efficiency Directive. The first technical meetings have started and the first trilogue on the electricity market design was held on 27 June; the trilogues will continue in September, October, November and possibly December. The first trilogue for the ACER Regulation recast will be held in September. From 17-18 September an informal Member States' Ministers meeting is scheduled and the Energy Council is scheduled for 19 December in Brussels. More discussions are being held on the Gas Directive; this has been discussed at the COREPER meeting in June. It will then be discussed at technical level again. Progress may also depend on the trilateral discussions between Russia, Ukraine and the EU.

➤ Report on the NC IMG meeting on 2 July.

Mr Schuetz from the EC, the Director and the BoR Chair reported on the last IMG NC meeting. The NC IMG focused on the Transparency Platforms (TP) as well as on the NC amendment process. With regard to the TP, the IMG NC reiterated that, as a general rule, the transparency platform data should be made available to users without data re-use restrictions (open data license).

In terms of developing a consistent process for amendments, it was agreed that the NC IMG parties would send their comments and concrete wording proposals on the ACER guidance on NC amendments to allow the Agency to suggest which parts could be used for developing a consistent procedure for the assessment of amendments for further discussion at the IMG NC.

Mr Schuetz referred to the EC list of current studies provided to the NC IMG members. Additionally he reported on the progress with the study on independence of NRAs. The final report is expected by the end of October. Furthermore, the IMG NC decided to establish an expert group on NEMOs governance.

The Director clarified that he always coordinates with the ACER HoDs ahead of the IMG NC meetings while Mr Blaney supported the early involvement of the WG chairs on the IMG agenda. The Director also reported that on the language waivers issue, the EC will look into other Agencies' practice.

The next NC IMG meeting shall take place in autumn after the Madrid Forum, and after that in January 2019 after the CEP initiative is politically agreed.

c) BoR Chair

➤ Timeline for mapping the CEP proposals

The BoR Chair noted that at the internal BoR workshop of 13 March on the future challenges to the Internal Energy Market (IEM) it was proposed to organise a discussion to take stock of the new CEP framework at the September BoR. The AWG Chairs, together with the ACER HoDs, were responsible for mapping the CEP proposals and presenting proposals at the September BoR on key areas to explore in preparation for the Summit. The Chair proposed to put this off until October or later given the trilogues have just started and thus we shall not have an "agreed text" by the Institutions by September.

Ms Vadasz-Nilsson informed the BoR about a pending Court case on the use of congestion income by the Baltic cable - interconnector. Ei issued a decision in 2016 ordering the owner, Baltic cable AB, to deposit their congestion income on a specific account to guarantee the income is used according to Article 16(6) of the Electricity Regulation. This was appealed to the Swedish Administrative Court. The Baltic cable is a commercial cable and their only income is from congestion fees. The Swedish Administrative Court has, therefore, upon request by Ei sought a preliminary ruling to the ECJ on the proportionality of Article 16(6) of the Electricity Regulation, as the Baltic cable AB cannot even use the income to maintain the interconnector. A caveat is also that when the Electricity Regulation entered into force (2009) this was the only existing commercial cable. She will keep the BoR posted on further developments on this case.

3. Items for BoR opinion, endorsement or agreement

3.1. ACER Decision on the all-NEMO proposal on DA and ID Algorithms

The Director presented the Agency's draft decision on the all-NEMO proposal on DA and ID Algorithms. The case of the Algorithm methodology was referred to ACER on 30 January 2018. A public consultation was organised between 26 April and 18 May (3 weeks). The main issues that needed solved were presented at the last BoR meeting. Subsequently, the draft decision on the methodology was circulated to the AEWG on 1 July for comments until 4 July.

The draft decision was submitted for a BoR opinion along with its four annexes. The Agency considers the amended proposal in line with the requirements of the CACM Regulation, provided that the amendments described in the Decision are integrated in the Amended Proposal, as presented in Annexes I, II and III. The Agency must issue its decision by 30 July.

The Director then referred to the remaining open point regarding the methodology that should define the scheduled exchanges between NEMO trading hubs. He explained that the Agency eventually concluded that the best approach was to include it in the scope of the methodology for calculating scheduled exchanges (rather than in the algorithm methodology).

Ms Groebel made the following remarks: With regard to the relation to the all TSOs' scheduled exchange (SCH EXC) methodology, the inclusion of the calculation of scheduled exchange between NEMOs trading hubs into the algorithm proposal is strictly necessary.

With regard to the monitoring and change control procedure, BNetzA is advocating for a comprehensive inclusion of such procedures and related descriptions into the current ACER decision. This new method should be dealt with the hub algorithm.

The Director clarified that the management of the algorithm should be the responsibility of NEMOs but the TSOs should also cooperate.

The majority of members present or represented provided a favourable opinion on the ACER decision on the all-NEMO proposal on DA and ID Algorithms with a dissenting opinion of BNetzA.

3.2. ACER Opinion on ENTSOG's Summer Supply Outlook 2018

The Director presented the Agency's opinion on the ENTSOG Summer Supply Outlook 2018, which welcomes the publication of the Summer Supply Outlook (SS) 2018 by ENTSOG ahead of the summer season. The Agency is of the view that the SSO 2018 and the accompanying Summer Review 2017 contribute reasonably to the objectives of Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009 in terms of non-discrimination, effective competition and the efficient and secure functioning of the internal natural gas market.

In particular, the Agency welcomes the analysis of the underground gas storage (UGS) inventory and the effects of the cold spell of March 2018, and the data contained in Annex D to the SSO 2018. The Agency's opinion underlines the importance of the main conclusions of the Outlook regarding gas supply and demand and the Director referred to the key remarks.

The BoR provided its favourable opinion by consensus of the members present or represented on the ACER opinion on the ENTSOG's Summer Supply Outlook 2018.

3.3. ACER Programming Document 2019-2021

The Director presented the background to the PD 2019-2021. Pursuant to the ACER Regulation, the AB shall adopt, before 30 September each year, after consulting the Commission and after having received approval by the Board of Regulators in accordance with Article 15(3), the work programme of the Agency for the coming year and shall transmit it to the European Parliament, the Council and the Commission. The Board of Regulators shall approve the work programme (PD) of the Agency for the coming year and present it by 1 September of each year for adoption by the Administrative Board.

The Director noted that the Commission has given its informal feedback on the PD, however its formal opinion (due by the end of June) is delayed. The Director expects that the EC's final opinion would be broadly the same and noted that in any case it is not a pre-requisite for the BoR approval. ACER has amended its PD on the basis of the informal EC opinion received. The changes from the PD (endorsed by the BoR in January) are as follows: The PD now clearly states that in case of lack of resources, legally mandated activities classified at a lower priority level will be performed in a more concise form, possibly to the minimum extent compatible with the Agency complying with its legal obligations.

The Director made also reference to the staff needs. Some Full Time Equivalent (FTE) figures for specific tasks have been fine-tuned and consequently also some figures on the financial resources per activity have been recalculated.

Last, reference is made to the contribution of the Agency to the security of energy supply in the EU.

Mr Ermacora noted that the EC opinion is expected to be adopted in around two to three weeks. There will be a call to align the PD with the resources available according to the EU budget.

Ms Gassin noted the reason for the 6 months needed for the EC to issue its opinion given the draft PD was already prepared by 31 January. This situation needs to be improved.

The EC clarified that they must feed the input from the Agency into the budgetary cycle in the EC.

The Director clarified that the PD would be re-aligned with the definitive budget e.g. only after the Budgetary Authority has taken its decision.

Mr Blaney invited the BoR to approve the document given that he would also like to avoid a BoR electronic Procedure during the summer.

The BoR approved by consensus of the members present or represented the ACER Programming Document (2019-2021).

4. Cross-sectoral

4.1. Update on the requests for LEN advice

Mr Šik provided an update to the BoR on the pending requests for legal advice to the LEN. Mr Šik also presented the completed advice of the LEN with regard to the merging of Common Grid Model methodologies. The LEN received five requests to date. The second and third LEN Panels were set up to provide advice regarding the Balansys file. The second LEN Panel examines the conditions under which a TSO can transfer its regulatory balancing responsibilities, currently considered as a typical TSO activity, to another entity. A second draft is currently being reviewed by the Panel.

The third LEN panel, assessing the effectiveness of the compliance programme (Art. 7(4) Gas Directive) has been put on hold, however, pending the advice of the second LEN Panel. The purpose of these LEN Panels is to help the Agency in evaluating the request of a joint venture for approval of its compliance programme.

The fifth LEN Panel investigates the involvement of exempted TSOs/NRAs in all-RA decisions. The final advice is expected by end-July.

The advice of the fourth LEN Panel on the merging of the Common Grid Model methodologies according to Arts. 67(1) and 70 of Commission Regulation 2017/1485 (SO GL), Art. 18 of Commission Regulation 2016/1719 (FCA GL), and Art. 17 of Regulation 2015/1222 (CACM GL) was shared. The LEN has been asked to assess and provide answers to the following two questions:

1. Would it be possible to have one legal consolidated CGM methodology with three different legal bases?

The answer is yes, it would be possible. There are no legal obstacles to establishing one consolidated CGM methodology based on the three guidelines, once all of them have been approved. However, the respective legal bases of the different parts of the consolidated methodology need to be clearly specified with reference to the corresponding provisions of the guidelines.

2. If so, would it be possible to submit a request for amendment to TSOs with a view to create one consolidated version of CGM once the three methodologies are approved?

Yes, it would be possible for NRAs to request the creation of a consolidated CGM methodology by way of amending the three existing methodologies. However, the enforcement of such a request could prove difficult.

Mr Šik indicated that proposals to effectively merge these methodologies could be proposed by the AEWG. Undoubtedly this will lead to follow-up questions which may be transferred to the LEN.

5. Electricity

5.1. Important AEWG updates

Mr Copley provided a brief update on the last AEWG which took place on 28 June. A meeting was held on 29 June with TF convenors and the AWG Chairs regarding strategic planning and the CEP.

He also reported to the key conclusions of the meeting. The ACER workshop on NCs implementation as requested by the Energy Community Regulatory Board, will take place on 21 September in Rome. The outcome of this will be presented at the next BoR.

5.2. ACER Demand Connection NC and Requirements for Grid Connection NC Implementation Monitoring Report

The Director reported on the ACER Implementation Monitoring Report for the Demand Connection NC and Requirements for Grid Connection NC. As per Article 9(1) of Regulation (EC) No 714/2009 the Agency monitors and analyses the implementation of the Network Codes and the Guidelines. The report shows that NC DC and NC HVDC implementation is well on track but full implementation is still to be achieved. The Agency urges a prompt implementation of requirements on criteria for granting derogations by the respective Member States and asks NRAs to promote rapid progress and transparency. Regarding the criteria for granting derogations, the Agency understands NRAs may amend at most once every year the criteria for granting derogations. The Agency recommends that, in doing so, NRAs take into account best practice, as shared in the framework of the Agency.

The Agency will publish the Report as soon as possible.

5.3. System Operation GL & Emergency and Restoration NC monitoring information requirements – data request to ENTSO-E

The Director informed the BoR on the data request that should be submitted to ENTSO-E. The Agency, in cooperation with ENTSO-E, shall produce within 12 months from the entry into force (14 September 2017) of the System Operation Guideline (SO GL) a list of the relevant information to be communicated by ENTSO-E to the Agency in accordance with Articles 8(9) and 9(1) of Regulation (EC) No 714/2009. Given that the exact data required for implementation monitoring depends on some terms and conditions or methodologies currently being developed under the SO GL, the Agency intends to define the list of the relevant information by the end of 2019. A letter to ENTSO-E reflecting the above considerations will be sent shortly.

6. Gas

6.1. Important AGWG updates (presentation)

The AGWG Chair, Ms Poletti, provided an update on the main conclusions of the last AGWG which took place on 26 June.

With regard to the functionality data exchange issue, Ms Poletti informed the BoR that the use of AS4 protocols by market area operators at the VTP was discussed at the IO TF together with ENTSSOG and stakeholders. A workshop took place on 16 May and a data exchange consultation took place in June. A joint ACER/ENTSSOG solution had been approved at the last AGWG. An informal EC-Member States' meeting took place on 20 June. The EC indicated it would not launch an amendment process for the IO NC in 2018, not even for the FUNC issues, since the end of the term of the current EC means that there is not enough time to complete the amendment process. The NC amendment process would at the earliest start in the beginning of 2019. The solution as endorsed by the AGWG consists of making the IO

NC apply to VTPs; extending the obligations to parties carrying out data exchange on behalf of TSOs; having the NC amendment apply from 2020; and adjusting the scope of the ENTSOG CNOT for Nominations & Matching in order to include VTPs.

Further, Ms Poletti highlighted several new studies on gas from the EC. A workflow of the EC for the new gas legislation will be on upgrading the market aiming at improving gas market functioning. There are two new studies to be launched for this workflow:

1. In 2018 on TSOs revenue, potential distortive effect of non-harmonised tariffs, a reflection could be developed on a common procedure for decommissioning.
2. In 2019 on the possibility to develop a tailor-made regulation to improve market functioning, harmonization of the licensing, reducing administrative barriers.

NRAs feedback is essential for these studies.

Lastly, Ms Poletti informed the BoR on the ongoing work on the Allowed Revenues Report. The work is delayed. The consultant has submitted the first draft of the report that has been shared with NRAs. The consultant will submit additional work to be shared with NRAs. Due to this delay the deadline for NRA comments is 17 August. According to the TAR NC the report should be ready by April 2019.

Mr Ermacora mentioned that DG ENER is earmarking budgets to launch several studies to prepare a possible impact assessment and to provide further information to develop proposals for policy initiatives with focus on gas to the new EC (which is expected to take office as of November 2019). The first proposals could be tabled by mid-2020. Therefore, studies should start by the beginning of next year. Both studies mentioned are of big interest. As a general comment, Mr Ermacora indicated that ideas for studies to be launched by the EC and regulators should be synchronised as much as possible. With regard to the study relating to tariffs, a follow-up study is being considered. This is based on the work done by regulators.

Updates from the Director

- **Booking platform Decision DE/PL border**

The Director informed the BoR on the issue of the booking platform for IPs on the German-Polish border. The German and Polish TSOs and NRAs were unable to reach a decision on the booking platform for IPs at the border between the Gaspool market area (GASCADE and ONTRAS) and Poland (GAZ-SYSTEM). This matter was referred to the Agency which must decide by 19 October. A workshop was held which was useful, although there was a limited interest from network users in the workshop. 29 answers were collected in the public consultation. The process will follow EU procurement standards, but is not a tender. Assessment of the booking platforms is done through selection criteria and award criteria. The decision will be presented for favourable opinion at the October BoR.

- **Update on the ACER analysis on the NL TAR consultation**

The Director provided an update on the ACER analysis of the Dutch TAR consultation. This is the first review of a public consultation document for a new reference price methodology. The Agency's draft report will be shared with ACM.

On substance, the Agency concludes that this, overall, is a good example of a consultation document. The consultation was complete (with the exception of two elements regarding services outside the scope of the TAR NC and the fact that the methodology removed one exit point from the network. The Agency

is looking into these issues. The proposed reference price methodology (RPM) is compliant with the principles in Article 7 (cost-reflectivity, no undue cross-subsidisation, non-discrimination, non-distortion of cross-border trade, volume risk), and the RPM is simple and user friendly and it enables transparency and replicability of tariffs.

The Director is confident that the report can be issued in the following week, around 27 July.

Ms Poletti indicated that in the future it would be good to share and discuss this type of reports before they are published. Such reports can go to the AGWG first, as this is also a learning process for other NRAs.

The Director responded that an internal guidance document was developed earlier in the year, which was shared at TF level. Once issued, the practice is that such a report is sent first to the addressee and then it is published. In the future, however, if time allows we could aim to get the report through the AWG also before the Director's review.

6.2. ACER Balancing NC Implementation Monitoring Report

The Director presented the ACER Balancing NC Implementation Monitoring Report which is the third Report on the implementation of the Balancing Network Code. The Report analyses the functioning of the balancing regimes in seven countries during Gas Year 2016/17 and presents findings, recommendations and an indication of desirable next steps to deliver full implementation of the Code by the April 2019 deadline.

The Director clarified that compared to the version presented at the AGWG, the report includes:

- An executive summary
- An agreed text on technical and political level with all NRAs
- Editorial improvements (on the text, order of countries, references, pictures, and tables).

The Director set out the key conclusions of the report.

- The Agency takes note of the implementation delays and emphasises that Member States need to take necessary steps to meet the April 2019 deadline for full implementation. TSOs play an important role in the development of short-term markets.
- There are discrepancies across the normalised values of the physical and commercial country indicators which hint that choices in the implementation of balancing lead to differences in balancing performance. In addition, the indicators point out possible areas for improving the balancing regimes.
- The Agency perceives the access to complete data for all the inputs of the Framework as a precondition for its analysis. The Agency looks forward to getting complete and validated data for all the indicators of the Framework.
- Many countries have achieved substantial progress in their efforts to implement and efficiently operate a regime consistent with that mandated by the Code. However, the implementation of the code is still patchy. Whilst some regimes are in a well-developed stage, others have made limited or no progress. Substantial effort is still needed before full Europe-wide implementation is achieved. Therefore, not all benefits to consumers are realised. The lack of development of short-term wholesale markets frustrates full and effective retail competition. Delays continue particularly in the countries that did not, or only sporadically, followed the code development process and the comitology discussions on balancing. While challenges are not the same in all the Member States, the report notes that in those countries where more work needs to be done the commitment to change

needs to be stronger. In particular the Director noted that in many countries that are using interim or even transitory measures, progress has been much slower than anticipated. Interim measures should finish by April 2019, by which time full market-based balancing with the TSO using only Short-Term Standardised Products (STSPs) for its balancing actions and full daily cash out should have been implemented. ACER encourages all countries to make progress towards the April 2019 goal.

7. Market Integrity and Transparency

7.1. Important AMIT WG and REMIT CG updates

Ms Groebel provided a brief introduction with regard to data quality. Reliable data is of key importance. REMIT requires high quality data. Therefore, Mr Zuleger will provide a presentation on data quality setting out the wider context. The next AMIT WG will take place on 6 September.

- **Follow-up on data quality**

Mr Zuleger provided a presentation on data quality. As part of this presentation Mr Zuleger would also focus on some of the comments from NRAs at the last BoR meeting, with regard to ongoing data quality work and input that was requested from NRAs.

Mr Zuleger provided some context: ACER is currently collecting more than two million records of transactions under REMIT per day. REMIT data is used for the Agency's REMIT market monitoring scheme and is the foundation of the alert dashboard shared with NRAs (combination of SMARTS usage and manual assessments). Aggregated REMIT data is also used for the gas wholesale market chapter of the Agency's Market Monitoring Report since 2017. REMIT data has been shared with NRAs to be used as source, or complementary to already available sources of data, for NRAs' monitoring, investigation and enforcement purposes under REMIT.

Mr Zuleger put the REMIT data collection and sharing into perspective with some data from ESMA and financial regulators for MiFID data. The design of the data reporting regimes has benefitted from lessons learned under MiFID I and EMIR. REMIT is the only central pan-European data collection regime. Mr Zuleger emphasised that ESMA looks into data quality with significant own resources and data quality experts from the financial market authorities of the Member States. By contrast, ACER is doing the same task with limited resources and there are only a few NRAs active in data sharing who have limited resources themselves as well.

With regard to the ongoing data quality analyses and reports, Mr Zuleger specifically focussed on the communication of data quality findings. This is done through several methods. The public is addressed through the REMIT portal, where open letters are published. A second open letter on data quality will be issued next week. Relevant reporting parties are addressed with specific data quality issues relevant to their reporting (RRMs/OMPs). NRAs are addressed for information and to support REMIT data quality improvement endeavours and to enable NRAs to address data quality issues with MPs.

REMIT data quality management will require continuous improvement of the data quality. Continuous evolution of EU wholesale electricity and gas markets makes it necessary for the Agency to constantly adapt and provide further guidance to the stakeholders.

With regard to NRAs involvement in data quality improvements, Mr Zuleger highlighted the need for NRA involvement to contact Organised Market Places (OMPs) should they not cooperate with ACER to provide

accurate, complete and consistent data. There has been a good experience with CRE to get OMPs to improve on filing complete data. Also, timeliness of transaction reporting is key and where needed involvement of NRAs to ensure MPs compliance with reporting timelines could be necessary.

Some MPs are inactive. About 25% of registered MPs showed no evidence of activity. There are some legitimate reasons why MPs do not report. NRAs are to verify whether non-reporting of registered Market Participants is justified (e.g. intragroup contracts) or whether non-reporting is in breach of the REMIT reporting obligation. There are some good practices already where NRAs received the list of inactive MPs and investigated these. The outcome of that investigation was then received from the NRA.

Mr Zuleger concluded that a single point of data collection and unique ACER XML formats and ACER guidance on transaction reporting are key success factors for REMIT data collection and sharing. Indeed, there are data quality issues, but reported data is normally human readable and/or understandable. However, due to the data volume, there is an issue with processing the mass data through sophisticated Business Intelligence Tools which require a very high level of data quality. Data quality priority is currently on standard transactions, inside information and transparency platforms, then on bilateral contracts and orders to trade and then other fundamental data.

Further, the request for input from NRAs was recently renewed at REMIT CG level for the following reports:

- 001: Registered MPs reporting (NRAs to provide feedback on ACER's reports. Received so far: 2).
- 009 - Timeliness of reporting (ACER is offering to provide information per NRA. Received so far: pending).
- 014 - EICs in fundamental data (NRAs to provide input. Received so far: pending).

Mr Zuleger described the suggested way forward. ACER has started to arrange phone calls with NRAs active in data sharing on a joint REMIT data quality strategy and an annual work plan on data quality. ACER will offer on the job training on REMIT data quality for new NRA staff in Ljubljana. ACER is considering to open cases through the Case-Management-Tool to progress on data quality. Operation of OBIEE and use of REMIT data beyond REMIT will enhance data quality work. More input (setting of priorities, proposing analysis) and more feedback from NRAs on data quality is needed. He underlined the need to join forces between ACER and NRAs. The aim is to share work and not duplicate work. A workshop on data quality will be organised. Mr Zuleger asked NRAs to let the Agency know if NRAs know of any research institutes working on related data quality issues. The Agency already works with JRC.

At the end of the meeting Mr Blaney on behalf of the BoR paid tribute and thanked the Director for his remarkable work, commitment, leadership for the Agency from its establishment and over all the past years. His contribution had led to the Agency's success and high appreciation amongst Institutions and stakeholders.

The Director thanked all NRAs involved in the work over the past eight years. He looks back on a fruitful, interesting, and successful period.