# MINUTES

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<tr>
<td>Bulgaria (EWRC)</td>
<td>A: Evgenia Haritonova</td>
<td>Luxembourg (ILR)</td>
<td>M: Camille Hierzig</td>
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<td>Cyprus (CERA)</td>
<td>O: Marilena Delenta (with proxy)</td>
<td>Netherlands (ACM)</td>
<td>A: Remko Bos O: Nora Méray</td>
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<td>Czech Republic (ERO)</td>
<td>A: Jana Haasová O: Tomáš Kupčiha</td>
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<td>M: Rafał Gawin A: Malgorzata Kozak</td>
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<td>Denmark (DUR)</td>
<td>O: Thomas Vom Braucke</td>
<td>Portugal (ERSE)</td>
<td>A: Pedro Verdelho O: Natalie McCoy O: Catarina Santos</td>
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<td>Estonia (ECA)</td>
<td>A: Marilin Tilkson</td>
<td>Romania (ANRE)</td>
<td>O: Florin Tobescu</td>
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<td>Finland (EV)</td>
<td>A: Antti Paananen</td>
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<td>France (CRE)</td>
<td>A: Jean-Laurent Lastelle O: Claire Hellich</td>
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<td>A: Bojan Kuzmič</td>
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<tr>
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<td>Hungary (HEA)</td>
<td>M: Pál Ságvári</td>
<td>EEA-EFTA State Iceland</td>
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<td>O: Tamás Gyarmati (with proxy)</td>
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<td>Ireland (CRU)</td>
<td>M: Jim Gannon</td>
<td>Norway (NVE-RME)</td>
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<td>O: Barry Hussey</td>
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<td>Italy (ARERA)</td>
<td>M: Clara Poletti</td>
<td>EFTA Surveillance Authority (ESA)</td>
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<td>A: Francesco Cariello</td>
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<td>O: Ilaria Galimberti</td>
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<td>ACER</td>
<td>Christian Zinglersen, Christophe Gence-Creux, Dennis Hesseling, Martin Godfried, Volker Zuleger, Marcel Vochem, Antonio Santos, Fay Geitona, Mitsuko Akiyama</td>
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<td>European Commission</td>
<td>Catharina Sikow Magny, Cristof Lessenich, Oliver Koch, Michael Schuetz, Dina Filiou, Guido Bortoni</td>
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<td>CEER</td>
<td>Charles Esser</td>
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1. Election of the BoR Chair

The Vice Chair, Mr Gawin, and Ms Geitona presented the agreed process and arrangements for the appointment of the BoR Chair in accordance with Article 21 of Regulation 2019/942 and Article 3.1 of the BoR Rules of Procedure.

Ms Poletti, the sole candidate for the position, noted that she would be honoured to chair the BoR for a second term pointing to the last years’ challenges given the restrictions due to the epidemic and the intensive work in the context of the Clean Energy Package (CEP). Hence the need emerged for new working arrangements, adaptation of the rules of procedure and structures with the creation of new ACER Working Groups (AWGs). She thanked colleagues, the ACER Director, the BoR Vice Chair and the Secretariat for the collective work and efforts within the BoR as well as the CEER President for the excellent cooperation signifying a profound trust and a collaborative ethos. In the next years, many changes and challenges are anticipated in the energy markets’ path towards decarbonisation and regulators need to ensure a flexible, transparent and well integrated system. These will need to rely on fruitful and robust collaboration including with CEER to address the emerging regulatory aspects.

The BoR unanimously agreed to the reappointment of Ms Poletti as the BoR Chair.

| Decisions/Conclusions | 1.1 The BoR reappointed Ms Poletti as the BoR Chair for a term of two and a half years commencing 13 July 2021. |

2. Opening

2.1. Approval of the agenda

The draft agenda has been sent to the European Parliament. The Chair asked for declarations of conflict of interest. None was declared.

2.2. Minutes of the 100th BoR meeting

The minutes of the 100th BoR meeting were approved and sent to the European Parliament on 14 June.

| Decisions/Conclusions | 2.1 The BoR approved the agenda. |

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

3.1. Updates from the EC

Green Deal updates: TEN-E revision, Fit for 55 package, the public consultation on the hydrogen and gas markets decarbonisation package

The Chair welcomed Director Sikow-Magny to the BoR meeting noting the BoR’s keen interest in retaining the good cooperation with the EC building a shared vision and objectives. Ms Sikow-Magny congratulated Ms Poletti and Ms Groebel for their re-appointment as the ACER BoR Chair and CEER President respectively.

Ms Sikow-Magny presented the state of play of Green Deal initiatives, in particular TEN-E and the “Fit for 55 package” to be adopted on 14 July. The EU ambition to make Europe neutral by 2050 is revolutionary. The EU is keen on raising ambitions and is committed to reduce greenhouse gas emissions by at least 55% by 2030 on the basis of a threefold strategy: (a)
prioritisation of energy saving; (b) maximising electrification where it is cost feasible (through the boost of renewable energy sources); and (c) innovation (e.g. using low carbon fuels such as hydrogen where electrification is not possible). The “Fit for 55 package” is composed of a dozen legal proposals (including *inter alia* the revision of the Renewable Energy and Energy Efficiency Directives, the Energy Taxation Directive, the Emissions Trading Scheme, a carbon border adjustment mechanism; as a second batch, proposals for the Hydrogen and Decarbonised Gas Markets Package, the Directive on the energy performance of buildings and rules on reducing methane emissions which will follow by the end of this year.

Ms Sikow-Magny suggested that after the adoption of the package, the EC and regulators should work together and discuss the key elements which are relevant from a regulatory perspective. Challenging negotiations are expected and hence a need for coordination and coherence (responsibility for the legislative proposals is spread between DG ENER, TRADE, CLIMA and ENVI). Hence good cooperation with regulators is essential.

Regarding the TEN-E revision, Ms Sikow-Magny suggested intensifying cooperation and working more closely together to ensure that policies and priorities are best implemented. She is keen on participating more often in BoR meetings to discuss topical issues as they emerge. While cooperation at technical level is very good, high level discussions in the BoR on the basis of issues of common interest would be valuable.

Ms Sikow-Magny then reported on the forthcoming Hydrogen and Decarbonised Gas Markets Package and thanked the regulators for their input which has been helpful in preparing the EC Impact Assessment. 263 responses were submitted to the public consultation which closed on 18 June: The feedback was from included various stakeholders such as: public authorities, industry, associations, academia, NGO, and consumer associations. The large majority of respondents confirmed the need to revise the Gas Directive and Regulation in order to reach the decarbonisation objectives. Over 60% of respondents expect that the changes needed to decarbonise will stimulate jobs by 2030. The majority of respondents also agreed that the EC selected the right questions and topics for the public consultation.

The Chair opened the floor for discussion. In terms of the TEN-E revision discussions, she recalled the different roles of Regulators, ACER and the EC and the rationale for the existing governance. The EC has been supportive of independent regulators and an Agency with technical competences. It is important to ensure effective regulatory oversight which is often overlooked as the institutional debate gets blurred. We need to have a sound governance (including for infrastructure) and to improve it.

The ACER Director shared the views on the need for a collaborative ethos which has been demonstrated whilst sometimes there are diverging views. He considers that market integration is often overlooked in the wider discussions. In respect of the CBA, there are different technical and political aspects to be performed by different entities. He agrees that pursuing scenarios that don’t meet the political objectives is unacceptable. By way of example, the sensitivity analysis and IEA energy outlook take account of slow eco recovery but this is not a disregard of political objectives. On scenarios, views are broadly aligned although we are approaching it from different angles. Regarding ACER resources, he also noted that any new tasks should be matched with adequate resources but the required resources must be assessed during the negotiations and not at the outset to appropriately reflect the needs on the basis of the crystallised mandate and tasks of ACER.

Ms Sikow-Magny noted the challenge for decarbonising and the uncertainty that comes from the technological point of view and different speeds of implementation. Against this background, the CBA becomes more challenging and will have to combine more aspects not being a merely technical calculation that does not sufficiently reflect these uncertainties.
The Chair suggested adding an item on the September meeting to pursue the discussion and strengthen cooperation on the “Fit for 55 package” and the Hydrogen and Decarbonised Gas Markets package.

In terms of the next BoR meeting, which was initially scheduled as a physical meeting, the ongoing difficulties and restrictions emerging form the epidemic were noted; hence several members stated their preference for a virtual meeting subject to a subsequent review of the status before announcing the definitive planning.

Report on the Florence Forum

Ms Sikow-Magny reported on the Florence Forum, which took place on 14-15 June 2021 in a virtual format and with a very high turnout. She highlighted two issues: a high interest by participants in the timely implementation and enforcement of the network codes and guidelines and the methodologies developed under the Clean Energy Package; and the trading arrangements and agreements with third countries. Access to the internal energy market depends on the specific agreements in place with 3rd countries and thus almost every country border has its own specific circumstances. There is a growing need to work together to find solutions for good technical cooperation and establishing level playing fields, notwithstanding the political challenges.

Appointment of the new members of the Board of Appeal

The BoR was consulted and provided its feedback on the EC list of proposed members and alternates (drawn up following a public call for expression of interest) of the ACER Board of Appeal, who will be appointed by the ACER Administrative Board in accordance with Article 25(2) of the ACER Regulation. The call for interest was published on 11 March until 25th May.

3.2. Updates from ACER

The Director informed members that in its 2022 EU budget proposal of 8 June, the Commission supports 1 additional Temporary Agent (TA) to implement any additional tasks to be assigned via the revision of the TEN-E Regulation. Whilst recognising that REMIT fees put ACER on a more solid financing footing, the proposed budget does not address the immediate (2022) and longer term need for additional human resources, Furthermore, the Commission announced that it will reassess ACER needs in 2021 (per the requirement of Article 33(10) of the ACER Regulation) and that this may ultimately result in a proposed adjustment of ACER staff in the autumn amending letter to the draft 2022 budget. Besides a multi-year, adequate growth trajectory commensurate with the resources needed to meet its statutory mandate, in the short-term, for the EU 2022 budget, ACER should be granted as per the Administrative Board adopted budget 6 additional Temporary Agent posts, 2 Contractual Agent (CA) posts and 4 Seconded National Experts (SNE). 2022 will hopefully benefit from the above EC assessment and the Slovenian Presidency of the Council which has been very supportive of ACER. Securing adequate resources increasingly relies on SNEs from NRAs, and the Director invited members to consider ways to increase the SNEs available to ACER.

Mr Schuetz explained the EC rationale for the 2022 budget proposal which did not reflect the resources as per ACER’s adopted draft budget for 2022: Significant increases in resources should be based on a Legislative Financial Statement (LFS). The EC announced that it is preparing an assessment if ACER has sufficient resources. This assessment will be included in the Commission Opinion on ACER’s Programming Document. This assessment could identify higher proposed needs in the future and, subsequently, result in an LFS annexed to the Commission Opinion and be reflected in the autumn amending letter to the draft 2022 budget. He noted that this would be a one-off effort covering existing tasks of ACER for which staffing needs had been underestimated when preparing the third internal market package and REMIT and that for new tasks it is decisive that staffing and other funding needs will be sufficiently
reflected in the LFS accompanying new legislation. He stressed that solving ACER’s understaffing problem will also depend on Member States’ regulatory authorities being willing to send staff as Seconded National Experts (SNEs) to ACER.

The Director updated members and the EC on the planned timing of the BoR electronic procedure for the Cybersecurity Framework Guidelines. The BoR previously agreed to a shortened timeline and the Agency will shortly launch the process. The members took note of the specific timetable.

The BoR took note of the outcome of the BoR electronic procedure for the informal input to the EC regarding allowed revenue topics: the two-round procedure ended on 29 June. 25 members participated in the electronic procedure. The proposal secured the two-thirds majority for BoR endorsement.

3.3. Updates from the BoR Chair

The Chair informed members about the proposal to hold the ACER leadership away day in Ljubljana, its scope and tentative dates.

4. Items for BoR opinion/approval/agreement

4.1 Baltic methodology for a market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves

The Director introduced the draft decision. In accordance with the requirements of Commission Regulation 2017/2195, TSOs of the Baltic region submitted a proposal for the market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves for approval, and the NRAs of the Baltic region referred it to ACER in February-March 2021. The AEWG advice has been circulated.

As no proposal for comment/amendment was received by the deadline of 6 July, the Chair opened the vote. 27 members participated and the BoR favourable opinion was provided by the required majority of the members present or represented.

4.2 Core methodology for a market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves

The NRAs of the Core region referred the all TSO proposal of a capacity calculation region (CCR) for the market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves to ACER in February 2021. The AEWG advice has been circulated.

By the deadline of 6 July, 3 proposals for amendments and two comments were submitted. The BoR Chair invited members of the respective NRAs to explain their proposals.

The BoR Chair opened the vote on amendment (AM) 1 grouped together with comment 1. 27 members participated and the proposal reached the requisite two-thirds majority for adoption.

The BoR Chair opened the vote on (AM) 2 grouped together with comment 2. 27 members participated the proposal did not secure the requisite two-thirds majority for adoption.

The BoR Chair opened the vote on (AM) 3. 27 members participated and the proposal did not secure the requisite two-thirds majority for adoption.
The Director’s proposal will be finalised in the coming days taking into account the amendment approved and the discussion and be submitted for the BoR favourable opinion through electronic procedure.

The BoR agreed to the use of an electronic procedure for the favourable opinion on the draft ACER decision on the Core methodology for a market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves.

4.3 ACER-CEER White Paper on methane emissions

Mr Verdelho and Ms Hesseling presented the paper which addresses the area of methane emissions for which the EC has announced forthcoming legislation. Previously, ACER and CEER provided joint informal input to the EC’s public consultation on the EU Methane Strategy, which closed on 1 May. The white paper on rules to prevent methane leakage in the energy sector (gas in particular) builds on that informal input. The BoR unanimously endorsed the paper.

4.4 ACER Recommendation on multipliers

Mr Hesseling presented the draft Recommendation, its context and legal basis. Under Article 28 of Regulation 2017/460 (NC TAR), NRAs are responsible for taking a motivated decision on multipliers for each new tariff period, consulting the NRAs of all directly connected Member States and following the principles set out for multipliers and seasonal factors by Article 28(3). Pursuant to Article 6(2) of Regulation 2019/942, ACER may make recommendations to assist regulatory authorities and market participants in sharing good practices, considering that the NC TAR did not close the question of the adequate ranges applicable to multipliers. The AGWG advice has been shared with the members.

As no proposal for comment/amendment was received by the deadline of 6 July, the Chair opened the vote. 27 members participated and the BoR favourable opinion was provided by consensus of the members present or represented.

4.5 ACER Opinion on ENTSOG Summer Supply Outlook 2021

On 12 April 2021, the European Network of Transmission System Operators for Gas (ENTSOG) published the Summer Supply Outlook 2021 pursuant to Article 8(3)(f) of Regulation 715/2009. ACER may issue an opinion pursuant to Article 4(3)(b) of the ACER Regulation. The draft opinion states that the Summer Supply Outlook contributes to non-discrimination, effective competition and the efficient and secure functioning of the internal natural gas market. The AGWG advice fully endorsing the opinion has been circulated.

As no proposal for comment/amendment was received by the deadline of 6 July, the Chair opened the vote. 27 members participated and the BoR favourable opinion was provided by consensus of the members present or represented.

4.6. Decision on the CZ/AT request for time extension - INC CAM

According to Article 28(2) of Commission Regulation 2017/459 (the CAM NC), within 6 months of receiving the complete proposal for an incremental capacity project, the relevant national regulatory authorities shall publish coordinated decisions on that project proposal. Where a national regulatory authority objects to the project proposal and common agreement cannot be reached within the 6 months, ACER decides in accordance with Article 6(10) of Regulation 2019/942. The same Article provides that the concerned authorities may request an extension of up to 6 months to decide on the matter.

ACER was informed of project proposals for incremental capacity between Austria and the Czech Republic, in respect of which ERU and E-Control jointly requested an extension of 6 months.
(until 5 November 2021). The decision states that ACER deems the request reasonable and appropriate to allow them to reach agreement.

As no proposal for comment/amendment was received by the deadline of 6 July, the Chair opened the vote. 27 members participated and the BoR favourable opinion was provided by consensus of the members present or represented.

4.7 Appointment of the AGWG Chair

The Secretariat opened the call for nominations for the position of Chair of the Agency’s Gas Working Group (AGWG), as the term of the current AGWG Chair expires on 22 July. According to Article 2.2 of the rules of procedure of ACER Working Groups, the Director and the BoR jointly appoint one or more Chairpersons for each AWG.

Mr Verdelho expressed an interest in continuing as AGWG Chair. The BoR and the Director agreed on his reappointment as AGWG Chair (to be formalised in a joint decision of the Director and the BoR).

The Director and the BoR also agreed to the extension of the term of the AGWG Vice Chair, Mr Maes, (expiring in July 2021) until 22 September. Following consultation of the AGWG Chair, the Director and the BoR will appoint the (new) Vice Chair at the September BoR meeting.

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<tr>
<td>4.1 The BoR provided its favourable opinion on the ACER Decision on the Baltic methodology for a market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves by the required majority of the members present and represented.</td>
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<td>4.2 The BoR adopted the proposal for amendment (1) on the ACER Decision on the Core methodology for a market-based allocation process of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves by the required majority of the members present and represented and agreed to the use of an electronic procedure for the BoR favourable opinion on the ACER Decision.</td>
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<td>4.3 The BoR endorsed the white paper on methane emission abatement by consensus of the members present and represented.</td>
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<td>4.4 The BoR provided its favourable opinion on the ACER Recommendation on multipliers by consensus of the members present and represented.</td>
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<td>4.5 The BoR provided its favourable opinion on the ACER Opinion on ENTSOG Summer Supply Outlook 2021 by consensus of the members present and represented.</td>
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<td>4.6 The BoR provided, by consensus of the members present and represented, its favourable opinion on the ACER Decision on the request for extension to decide on the proposals for incremental capacity between Austria and the Czech Republic.</td>
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<td>4.7 The BoR and the Director jointly agreed to (i) re-appoint Mr Verdelho as the Chair of the Agency’s Gas Working Group for another term of two years and (ii) extend the term of the current AGWG Vice Chair, Mr Maes, until 22 September.</td>
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5 AWG/ARC key issues

5.1 AWG/ARC key updates

Ms Materazzi-Wagner explained ACER’s concerns with the European Resource Adequacy Assessment (ERAA) 2021, the suggested actions and next steps.

The Director and Mr Cristof Lessenich both noted that the ERRA methodology reflects a core element of the Clean Energy Package which aims to capture a European perspective in adequacy assessment. It is a key instrument for the coming years to avoid overestimation of capacity and the introduction of unnecessary capacity mechanisms; hence the minimum requirements must be met. The BoR agreed the next steps proposed.

Ms Materazzi-Wagner also raised the issue of Swiss participation in the Imbalance Netting (IN) platform and the BoR discussed next steps.

Ms McCoy, the ARWG co-Chair, referred to recent developments in connection with the EC guidelines on data interoperability. The Clean Energy Package sets up a framework for data management (Articles 23-24 of the Electricity Directive) and empowers the EC to develop and adopt specific interoperability rules and procedures on the non-discriminatory and transparent access to the data of the final customer. Ms McCoy and Ms Filiou updated members on the ongoing debate within the expert group.

The Chair thanked the Chairs for their updates.

5.2 IMR for the Gas Balancing Network Code

Pursuant to Article 5(1)(e) of the ACER Regulation, ACER monitors and analyses network code implementation and their effect on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market, and reports to the Commission.

Mr Hesseling stated that the Agency’s efforts with respect to gas balancing in 2021 have focused on extending the application of the Balancing Analytical Framework (BAF) to a wider range of balancing zones and the development of an IT system (ZEN) to support the calculation of the indicators defined in the BAF and to facilitate the monitoring of the balancing market. Members took note of the report.

5.3 Scope of the ACER-CEER paper on the Gas Decarbonisation Package

Mr Verdelho and Mr Hesseling presented the draft skeleton of the ACER-CEER paper on the Gas Decarbonisation Package to be issued by the end of the year to inform the discussion. Members provided feedback and agreed the next steps.

5.4 Market surveillance strategy: Governance Section

Mr Marcel Vochem introduced the sixth edition of the Governance Section. Mr Vochem underlined that the findings mark the importance of ACER’s comprehensive monitoring activities and surveillance strategy. Based on the legal requirements (Article 7 and 16 of REMIT), the assessments and the resources available for market surveillance, ACER plans to maintain its surveillance approach as applied since 2018. Updates will be provided on an annual basis.

5.5 ACER (REMIT) Guidance

Mr Godfried explained that the REMIT Guidance is submitted for ‘informal endorsement’; given there is no formal requirement for a BoR agreement. ACER aims at a joint commitment of the NRAs to apply this Guidance where appropriate. At ARC level consensus was reached. Mr Santos explained that taking into account the expected market developments resulting from the implementation of the European Green Deal, as well as the experience gained so far, including
the feedback from NRAs, market participants and other stakeholders, ACER is issuing the 6th edition of its Guidance on the application of Regulation 1227/2011 pursuant to Article 16(1) of REMIT Regulation 1227/2011. The ACER Guidance has been restructured to make it more intuitive, and additional content was provided on the scope of REMIT and on the core prohibitions of insider trading and market manipulation. He thanked the colleagues and NRAs for their valuable work and efforts to prepare this.

The BoR unanimously endorsed the revamped ACER Guidance.

5.6 Update on the investigation into system separation in the Continental Europe Synchronous Area

Mr Uros Gabrijel presented briefly the key findings. On 8 January 2021, the synchronous area of Continental Europe was separated into two parts due to outages of several transmission network elements in a very short time. This extensive scale 2 incident is under investigation by the Expert Panel (joined by ACER and NRAs) on the basis of the Interim Report published in February. The Final Report is expected on 15 July; pending its publication, Mr Gabrijel updated members on the key elements of the report and the main reasons for the incident.

5.7 Repurposing CH4 infrastructure for pure H2 – Note for publication

Members were invited to take note of the draft paper which addresses the repurposing of existing natural gas pipelines for the transportation of pure hydrogen.

5.8 ACER Opinion on the Electricity National Development Plans

Members were invited to take note of the ACER opinion.

5.9 Gas MMR 2020

Mr Hesseling briefly introduced the report. The draft gas volume of the Market Monitoring Report (MMR) prepared pursuant to Article 15 of the ACER Regulation consists of four chapters: status of the internal gas market; a chapter on gas sector decarbonisation; ACER Gas Target model; and market effects of network codes implementation. This volume focuses inter alia on tracking progress towards decarbonising the European gas markets whilst data availability remains to be addressed and identifies factors that are likely to be pivotal for their evolution in the mid-term. Mr Hesseling underlined the document’s key role in enabling policy makers to better understand the impact of regulatory policies to adjust market design. The gas volume will be published on 14 July and a webinar was organised last week as a teaser.

5.10 Bidding Zone (BZ) Review methodology for the selection of the BZ configurations

Mr Gence-Creux presented the background for this decision. In accordance with Article 14(5) of the Electricity Regulation, ENTSO-E submitted a proposal for the methodology and assumptions to be used in the bidding zone (BZ) review process and for the alternative BZ configurations in October 2019. Failing agreement, the regulatory authorities referred the matter to ACER on 7 July 2020. In the absence of proposed alternative BZ configurations for Central Europe, and the need to take an informed decision, a two-step approach was envisaged, starting with an ACER Decision 29-2020 addressing the BZR proposal as far as the methodology and assumptions for the BZR process are concerned and adopting a pan-European BZR methodology. The decision on alternative BZ configurations was deferred to a later date (Q1/22). Mr Gence-Creux presented the next steps and the high level approach for the identification of the alternative BZ configurations. A public consultation on the approach to be followed for the definition of configurations has been launched and TSOs are expected to provide the input data by 31st October 2021.

Members took note.
5.5 The BoR unanimously endorsed the 6th edition of the Guidance on the application of Regulation 1227/2011.