

125th ACER Board of Regulators Meeting

17 July 2024 | 09:00 - 14:00

Virtual

MINUTES

Represented institutions	Names ¹
E-CONTROL (Austria)	M: Wolfgang Urbantschitsch; A: Dietmar Preinstorfer; O: Christine Materazzi-Wagner
CREG (Belgium)	M: Koen Locquet
EWRC (Bulgaria)	A: Blagoy Golubarev; O: Iva Georgieva
HERA (Croatia)	-
CERA (Cyprus)	O: Marilena Delenta
ERU (Czech Republic)	A: Jana Haasová; O: Tomáš Kupčiha
DUR (Denmark)	O: Amalie Estrup
ECA (Estonia)	-
EV (Finland)	A: Antti Paananen
CRE (France)	A: Ivan Faucheux; O: Claire Hellich-Praquin; O: Amélie Redotier
BNetzA (Germany)	M: Annegret Groebel; O: Alexander Linov
RAAEY (Greece)	M: Athanasios Dagoumas; O: Yuriy Bilen
MEKH (Hungary)	A: Gergely Szabó
CRU (Ireland)	M: Jim Gannon; O: Barry Hussey; O: Clodagh Hunt-Sheridan; O: Eilis McDonnell
ARERA (Italy)	M: Clara Poletti; A: Francesco Cariello; O: Ilaria Galimberti
PUC (Latvia)	M: Rota Šņuka
NERC (Lithuania)	M: Renatas Pocius; A: Irma Zdaniene
ILR (Luxembourg)	M: Claude Rischette

¹ M: Member; A: Alternate; O: Observer.

REWS (Malta)	O: Manuel Manuzzi
ACM (Netherlands)	O: Jan Willem
URE (Poland)	M: Rafal Gawin; A: Malgorzata Kozak
ERSE (Portugal)	M: Pedro Verdelho; O: Joao Diogo
ANRE (Romania)	A: Tatiana Iosiper
URSO (Slovakia)	A: Maria Bronisova
AGEN-RS (Slovenia)	A: Bojan Kuzmic
CNMC (Spain)	M: Josep María Salas; O: Gema Rico
EI (Sweden)	A: Caroline Törnqvist; O: Johan Roupe
NVE-RME (Norway)	-
EEA-EFTA State - Iceland	-
EFTA Surveillance Authority	-
ACER	Christian Zinglensen, Christophe Gence-Creux, Rafael Muruais Garcia, Csilla Bartok, Martin Godfried, Tina Voncina, Fay Geitona, Jan Kostevc, Slawomir Bryska, Akos Hofstadter, Martin Viehhauser, Mitsuko Akiyama, Antonio Santos
European Commission	Michael Schuetz, Ewa Lijewska, Barbara Diz, Oliver Koch, Catharina Sikow-Magny, Chiara Trovati, Joanna Pessemier

1. OPENING

1.1 Approval of the agenda & declaration of conflicts of interest

The agenda of the 125th BoR meeting was approved.

The draft agenda was sent to the European Parliament.

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

1.2 Minutes of the 124th BoR meeting

The minutes of the 124th BoR meeting were approved and sent to the European Parliament on 19 June 2024.

Decisions/Conclusions

1.1	The BoR approved the agenda.
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2. UPDATES FROM THE ACER DIRECTOR AND THE BOR CHAIR

2.1. Update from ACER

Members were informed that Mr Godfried will be the Head of the newly established REMIT Investigations Department and that Mr Santos will succeed him as acting MSC Head of Department from 1 September.

The BoR were informed of the outcomes of the following BoR electronic procedures. The BoR electronic procedure for the endorsement of the ACER-CEER guidance paper on electricity transmission and distribution smart grid performance was conducted in two rounds ending 19 June 2024. In the first round, 2 comments were submitted. In the second round, 22 members participated and unanimously endorsed the paper.

The BoR electronic procedure for the ACER Decision on the second amendment to the methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process was conducted in three rounds ending 3 July 2024. In the first round ending 21 June, 1 proposal for amendment was submitted, which was not adopted in the second round ending 28 June. In the third round, 23 members participated and the BoR favourable opinion was granted by the requisite majority.

The BoR electronic procedure for the ACER Decision on the second amendment to the implementation framework for a European platform for the exchange of balancing energy from frequency restoration reserves with automatic activation was conducted in two rounds ending 3 July 2024. In the first round, no proposal for comment/amendment was received. In the

second round, 23 members participated and the BoR favourable opinion was granted by consensus.

The BoR electronic procedure for the endorsement of the ACER-CEER position paper on the challenges of the future electricity system was conducted in two rounds ending 8 July. In the first round ending 2 July, 4 comments were submitted, which were taken into account as far as possible. In the second round, 24 members participated and the position paper was endorsed by the requisite majority.

2.2. Update from the BoR Chair

The BoR Chair recalled that the Director's current five-year term ends on 31 December 2024. Pursuant to Article 23(3) of the ACER Regulation 2019/942, the mandate is being assessed by the European Commission, who should also take into consideration ACER's duties and requirements in the coming years. This assessment could initiate the procedure outlined in Article 23(4) of the ACER Regulation, which allows for a single, five-year extension of the Director's mandate.

The BoR Chair then detailed the extension procedure. The Administrative Board (AB), acting on a proposal from the Commission, must first consult the BoR and has to give the utmost consideration to the assessment and opinion of the BoR. If the AB supports the BoR opinion, it informs the European Parliament (EP) of its intention to extend the Director's term of office. The EP may then invite the Director to make a statement in the EP. After that, the AB can decide formally on the extension of the mandate.

The BoR Chair outlined the actions expected of the members and the likely timeline which includes a BoR opinion on the Commission's proposal in September (18th). The EC representatives and the BoR Chair emphasized their commitment to keeping BoR members promptly informed about the procedure.

The provisional 2025 BoR meeting dates were circulated.

3. WIDER ENERGY UNION

3.1. Updates from the European Commission

- Key outcomes of the informal meeting of energy ministers (15-16 July 2024)

Director Catharina Sikow-Magny reported that the plenary sessions had focused on the role of geothermal energy in the European energy mix, the implementation of the 2030 policy framework and the role of the National Energy and Climate Plans (NECPs) on the decarbonisation of the energy system, and the competitiveness aspects of energy and the resilience and flexibility of the energy system as a key vehicle for decarbonising the economy. On the latter, the ACER Director and the President of Eurelectric were invited to give keynote presentations. The President of Eurelectric emphasized the need for electrification and significant upfront investments in distribution grids to meet growing demand. In contrast, the ACER Director highlighted the importance of the "efficiency first" principle for grid

infrastructure, advocating for enhancing the capacity of the current grid rather than solely building new infrastructure. He also pointed to the innovative technologies that could significantly reduce system costs. The ACER Director emphasized that mutual trust is essential for sharing benefits and costs. He also noted that achieving enhanced EU energy independence requires greater energy interdependence among Member States, which hinges on strong political will.

- Conclusions of the 10th Energy Infrastructure Forum (27-28 June 2024)

The Commission also reported on the conclusions of the Energy Infrastructure Forum. On the first day, the attendees included inter alia high-level representatives from ENTSO-E, ENTSO-G, EU DSO Entity, ACER, pre-ENNOH (European Network of Network Operators for Hydrogen), the European Investment Bank and the European Climate Infrastructure and Environment Executive Agency (CINEA), and the Forum focused on net zero energy infrastructure and delivering on the EU Grid Action Plan. The second day had 3 sessions covering hydrogen infrastructure, planning of the electricity distribution grids and anticipatory investments, incentives and tariffs. The European Commission also shared its Guidance on cross-border cost sharing for offshore projects. Ms Sikow-Magny highlighted the most relevant conclusions for ACER and NRAs e.g. the development of a set of criteria for the repurposing of infrastructure and an agreed EU catalogue of output (supported by input) indicators for smart grids at all voltage levels, and implementing innovative regulatory approaches and facilitating the integration of innovative network efficiency technologies through the tariff and revenue regulation regimes, on which progress will be presented at the next Forum.

4. ITEMS FOR BOR OPINION/APPROVAL/AGREEMENT

4.1. ACER Opinion on ENTSSOG's Summer Supply Outlook 2024

On 16 April 2024, ENTSSOG published the Summer Supply Outlook 2024 (SSO) in accordance with Article 8(3)(f) of Regulation (EC) No 715/2009. Pursuant to Articles 4(3)(b) of Regulation (EU) 2019/942 and Article 9(2) of Regulation (EC) 715/2009, ACER may provide an Opinion to ENTSSOG on the SSO.

Overall, ACER Opinion finds the SSO broadly consistent with the objectives listed in 4(3)(b) of Regulation (EU) 2019/942 and Regulation (EC) No 715/2009. The SSO assesses the European gas network readiness to meet demand, exports and the storage injection needs over the period 1 April - 30 September 2024. ENTSSOG applied several supply stress scenarios to assess the Union's dependence on Russian piped gas and liquified natural gas storages remain crucial for ensuring security of supply as they provide flexibility of gas supply during the winter season. The Opinion also outlines some recommendations for the future. The AGWG Opinion was also circulated.

As no proposal for comment/amendment was received by the deadline of 10 July, the BoR asked whether there was consensus to grant the BoR favourable opinion and the BoR agreed.

4.2. ACER Opinion on the compliance of the Ten-Year Network Development Plan (TYNDP) 2024 Joint Scenario Report with ACER Scenario Guidelines

On 30 May 2024, ENTSO-E and ENTSO-G submitted their joint TYNDP 2024 Scenarios Report to ACER, which is tasked with assessing the draft Scenarios Report against the Guidelines and issuing possible recommendations for amendments to the ENTSOs, Member States and the Commission under Article 12(5) of the TEN-E Regulation 2022/869.

Mr Kostevc presented the current status of this first exercise, pointing to many deficiencies of the Scenarios Report. Given the need to address open points, the BoR was invited to discuss the draft Opinion and agree to the use of the electronic procedure in August. The BoR provided feedback and ACER decided to table the vote on the Opinion at the next BoR meeting.

4.3. ACER Decision on the request of Continental Europe Synchronous Area NRAs for a six-month extension for reaching agreement on the TSOs' proposal for amending Frequency Containment Reserves dimensioning

Pursuant to Article 6(3)(d)(ii) and Article 153(2) of Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation (the SO Regulation), TSOs shall have the right to define a probabilistic dimensioning approach for frequency containment reserves (FCR) taking into account the pattern of load, generation and inertia, including synthetic inertia as well as the available means to deploy minimum inertia in real-time with the aim of reducing the probability of insufficient FCR to below or equal to once in 20 years.

In accordance with Article 6(7) of the SO Regulation, the regulatory authorities should agree a decision on the proposal (and any amendment thereto, as per Article 7(4) of the same) for the dimensioning rules for FCR in accordance with Article 153 of the SO Regulation including the proposal for a probabilistic dimensioning approach, six months after the last regulatory authority receiving the proposal. Where they are unable to agree within 6 months, ACER adopts a decision pursuant to Articles 6(8) of the SO Regulation and Article 6(10) of Regulation (EU) 2019/942.

The present Decision follows from the request of the regulatory authorities of Continental Europe Synchronous Area (CE SA) to extend (by 6 months) the period for reaching agreement on the CE SA TSOs' proposal for amending FCR dimensioning rules by including a probabilistic approach. The Decision proposes to grant the request to allow the regulatory authorities to acquire the studies necessary to fully assess the amendment proposal.

The AEWG Opinion was circulated. The BoR was invited to grant its favourable opinion on the Decision including the corrections submitted, resulting in an extension until 17.01.2025 as opposed to 11.01.25. In the absence of proposals for comment/amendment, the BoR Chair asked whether there was consensus to grant the BoR favourable opinion and the BoR unanimously agreed.

4.4. Administrative Arrangement between ACER and the UK regulatory authority

Pursuant to Article 318(1) of the EU-UK Trade and Cooperation Agreement (TCA), each Party is to ensure that ACER and the UK regulatory authority designated in accordance with Article

310 (the Gas and Electricity Markets Authority (GEMA) and Utility Regulator (UR)) enter into administrative arrangements (AA) as soon as possible to facilitate meeting the objectives of the TCA. As explained by the European Commission at the last meeting, the Specialised Committee on Energy (SCE) established under the TCA is to agree on guidance on the AA, and Annex III to the SCE Decision 1/2024 of 5 April 2024 contains the said guidance and builds on the work carried out by ACER in 2021. ACER and the UK regulatory authority have been in discussion to agree the changes to align with the SCE guidance and to reflect the recently revised REMIT framework.

Members were asked to endorse the changes introduced since 2021, after which the text will be sent back to the SCE for its consideration before its signature and implementation. Members unanimously endorsed the AA as amended.

Decisions/Conclusions	
4.1	The BoR issued its favourable opinion on the ACER Opinion on ENTSOG's Summer Supply Outlook 2024 by consensus of the members present and represented.
4.2	Following the BoR discussion, ACER will table the vote on the favourable opinion on the ACER Opinion on the compliance of the TYNDP 2024 Joint Scenario Report with ACER Scenario Guidelines at the next BoR meeting.
4.3	The BoR issued its favourable opinion on the ACER Decision on the request of Continental Europe Synchronous Area NRAs for a six-month extension for reaching agreement on the TSOs' proposal for amending Frequency Containment Reserves dimensioning by consensus of members present and represented.
4.4	The BoR unanimously endorsed the administrative arrangements with the UK regulatory authority.

5. AWG KEY ISSUES

5.1. AWG/ARC key updates

- AEWG updates on: the status of the access to the balancing platforms, next steps for the position paper on the challenges of the future electricity system, grid incidents

The AEWG Chair updated members on TSO accessions to the balancing platforms.

The AEWG Chair also referred to the ACER-CEER position paper on the challenges of the future electricity system, which was published on 11 July and has garnered media attention.

The AEWG Chair then informed the members of three grid incidents: firstly, the 21 June blackout in Montenegro, Bosnia, Albania and most of Croatia's coast. ENTSO-E set up an expert panel and interested NRAs were invited via the System Operation and Grid Connection Task Force to participate. An investigation report is expected within 6 months. Secondly, on 24 June, there was failure in Day-Ahead capacity calculation in the Core region. Default parameters provided much lower capacities. TSOs are investigating. Thirdly, on 25 June, there was a decoupling of EMCO (Nord Pool Nordic, Baltic), EPEX Core, EPEX Nordic and

significant price deviations in these affected areas with multiple Nominated Electricity Market Operators (NEMOs) following local IT issues at EPEX Spot. EPEX Spot is investigating the case and the report expected end July.

Finally, the AEWG Chair updated members on the long-term flow-based capacity calculation methodology (ACER Decision 03/2023), which is to be implemented by November 2024 in the Core region.

- Update on the flexibility needs assessment

Mr Muruais Garcia raised awareness of the important work on the EU methodology for flexibility assessment. In the first phase, this methodology will be proposed by ENTSO-E and the EU DSO entity by April 2025 and approved by ACER by the following July. ACER has stressed the importance of stakeholder engagement given that the methodology will affect different technologies. The methodology will provide the basis for the 27 national assessments of flexibility needs (July 2026) as well as the national objectives (January 2027), in the light of which Member States may apply for capacity mechanisms. In the second phase, ACER will issue a report assessing barriers to clean, flexible resources (July 2027) and an EU-wide flexibility assessment (July 2027), for which it is working on modelling tools.

- Update on the Hydrogen Markets and Regulation Task Force (HMR TF)

Mr Verdelho informed the members of the designation of Mr Marco La Cognata and Ms Anneke Francois as NRA HMR TF co-convenors, and the topics currently discussed within the HMR TF.

5.2. Furthering ACER-NRA collaboration: feedback received so far and discussion of possible steps to take going forward

Members were informed at previous BoR meetings about this initiative targeting how ACER could assist NRAs in addressing increasingly local or regional challenges alongside common ones. ACER has collected internal inputs and feedback from NRAs, on which it reported back, and formulated concrete proposals for furthering ACER-NRA collaboration. Members welcomed this initiative and endorsed the proposals. ACER plans to move to implementation in Q3 and to keep engaging in this dialogue on furthering ACER-NRA collaboration.

5.3. ACER Report on the implementation of the Inter-TSO compensation (ITC) mechanism in 2022

The ITC mechanism provides compensation for the TSOs that are part of the ITC agreement (ITC Parties) for the costs resulting from power losses and network investments to host cross-border transit flows across the EU. The compensation is financed through the ITC Fund established by ENTSO-E, as one of the mechanisms, to share the cost and benefits of developing and operating electricity network infrastructure within Europe. Other co-existing mechanisms to share such costs and benefits are the cross-border cost allocation of infrastructure projects of EU relevance and congestion income distribution.

ACER has the general duty to oversee the implementation of the ITC mechanism and the management of the ITC Fund and report each year to the European Commission. In 2023,

ACER was unable to issue a report because ENTSO-E shared the relevant information only on 11 April 2024. Thus the present report concerns 2022 implementation. ACER presented the findings of the report.

5.4. Update on Cybersecurity Network Code for Electricity

On 13 June, the Electricity Network Code for Cybersecurity entered into force. Article 4(1) provides that until a Member State has designated a competent authority (by 13 December), NRAs are responsible for carrying out the tasks of the competent authority.

Mr Bryska explained that by 13 September, some NRAs may thus be required to provide a list of national legislation with relevance for cybersecurity aspects of cross-border electricity flows to ENTSO-E and the EU DSO entity, and invited NRAs to input to the ongoing consultation (run by ENTSO-E and the EU DSO entity) on the provisional electricity cybersecurity impact index (i.e. load figures which, once reached, results in a company being designated as having critical impact with associated obligations; competent authorities will then identify high-impact and critical-impact entities by 13 February 2025). The presentation also outlined the NRA tasks pursuant to the Cybersecurity Network Code (NCCS), which sets out the objectives according to which the legally binding terms, conditions or methodologies will subsequently be developed, including: benchmarking and assessing the cost-efficiency of cybersecurity investments; assessing whether the NCCS compliance costs borne by the TSOs and the DSOs are reasonable, efficient and proportionate; and from around 2026/7, develop a Union-level cybersecurity crisis management and response plan for the electricity sector in collaboration with ACER and multiple stakeholders.

5.5. FI-SE hedging opportunities

Following ACER Decision 12/2022 on hedging opportunities on the FI-SE bidding zone borders (BZBs), the Finnish and Swedish TSOs submitted to their NRA two different, non-coordinated proposals: the former's proposal, approved by EV, being to wait for national infrastructure developments whilst the Swedish TSO proposal is to make available cross-zonal capacity via Electricity Price Area Differentials on the BZBs. Ei has referred the case to ACER.

ACER will continue discussing the case with the concerned NRAs. EV and Ei were invited to present their views.

5.6. Joint ACER-ESMA Guidance on market abuse on wholesale energy products that are also financial instruments

Regulation 2024/1106 usefully extends the scope of the market abuse provisions under REMIT to wholesale energy products (WEPs) that are also financial instruments (FIs), creating a 'one-stop shop' facilitating investigation and enforcement by NRAs, and promoting efficiency and consistency. At the same time, this results in overlaps between REMIT & Market Abuse Regulation (MAR) regarding the market abuse provisions of WEPs that are also FIs (without however exposing market participants to risks given the continued application of the *ne bis in idem* principle), increasing the need for coordination. Thus an internal guidance was developed in coordination with the European Securities and Markets Authority.

5.7. Market surveillance strategy: Governance Section

The Governance Section presents the EU-wide market surveillance coverage based on valuable input from NRAs through a dedicated questionnaire. The 9th edition was adopted by the ACER REMIT Committee and contains similar results as the previous version. In 2025, ACER will review the questionnaire in the light of the revised REMIT Regulation and the Implementing Regulation.

5.8. Updates on upcoming ACER Decisions on amendments of the algorithm methodology for co-optimisation, Day Ahead Scheduled Exchanges (DA SEC) methodology and the Single day-ahead coupling (SDAC) products methodology

ACER informed the BoR of upcoming decisions on the amendment of the algorithm methodology for co-optimisation, Day Ahead Scheduled Exchanges Methodology (DA SEC) and Single day-ahead coupling (SDAC) products methodology, which will be submitted for BoR favourable opinion in September.

By 1 January 2025, NEMOs need to go live with the 15' Market Time Unit (MTU) in SDAC, which will impact computational time to calculate Day-Ahead scheduled exchanges. Consequently, two amended methodologies were submitted to ACER. In respect of the DA SEC, TSOs propose to introduce a back-up functionality for the calculation of DA SECs between the Bidding Zones, which will increase the robustness of the SDAC algorithm and prevent decoupling in extreme cases.

On 24 November 2023, ACER also received a proposal from NEMOs for amending the 2020 methodology for the price coupling algorithm and the continuous trading matching algorithm, to enable a co-optimised allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves.