

103rd ACER Board of Regulators Meeting
27 October 2021
Ljubljana (and by video/audio conference)

MINUTES (FINAL)

Country/Institution	Name ^[1]	Country/Institution	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer O: Christine Materazzi-Wagner	Latvia (PUC)	M: Rota Šņuka O: Lija Makare
Belgium (CREG)	M: Koen Locquet A: Geert Van Hauwermeiren	Lithuania (NERC)	A: Irma Zdanienė
Bulgaria (EWRC)	A: Evgenia Haritonova	Luxembourg (ILR)	A: Claude Hornick
Croatia (HERA)	A: Sonja Tomašić Škevin O: Nataša Mihajlović	Malta (REWS)	A: Phyllis Mycallef O: Manuel Manuzzi
Cyprus (CERA)	O: Marilena Delenta (with proxy) O: Christina Zouvani	Netherlands (ACM)	A: Remko Bos O: Nora Meray
Czech Republic (ERO)	A: Jana Haasová O: Tomáš Kupčíha	Poland (URE)	M: Rafał Gawin A: Małgorzata Kozak
Denmark (DUR)	M: Carsten Smidt	Portugal (ERSE)	A: Pedro Verdelho O: Natalie McCoy O: Catarina Santos
Estonia (ECA)	A: Marilyn Tilkson	Romania (ANRE)	O: Florin Tobescu (with proxy)
Finland (EV)	A: Antti Paananen	Slovakia (URSO)	M: Andrej Juris A: Mária Bronišová O: Martin Lepieš
France (CRE)	A: Jean-Laurent Lastelle O: Claire Hellich O : Samuel Dab	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Spain (CNMC)	M: Josep María Salas O: Gema Rico

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

Greece (RAE)	M: Athanasios Dagoumas O: Konstantinos Prosmittrellis	Sweden (Ei)	M: Anne Vadasz- Nilsson A: Caroline Törnqvist
Hungary (HEA)	M: Pál Ságvári O: Tamás Gyarmati	EEA-EFTA State Iceland	A: Hanna Björg Konráðsdóttir
Ireland (CRU)	O: Barry Hussey (with proxy)	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Francesco Cariello O: Ilaria Galimberti	EFTA Surveillance Authority (ESA)	O: Ada Gimnes Jarøy
ACER	Christian Zinglensen, Christophe Gence-Creux, Dennis Hesseling, Martin Godfried, Volker Zuleger, Mathieu Fransen, Eleonora Nagali, Christos Kolokathis, Mitsuko Akiyama		
European Commission	Christof Lessenich, Michael Schuetz		
CEER	Charles Esser		

1. Opening

1.1. Approval of the agenda

The agenda of the 103rd BoR meeting was approved. The draft agenda has been sent to the European Parliament.

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

1.2. Minutes of the 102nd BoR meeting

The minutes of the 102nd BoR meeting were approved and sent to the European Parliament on 4 October.

Decisions/ Conclusions

1.1 The BoR approved the agenda.

2. Updates from the ACER Director and the BoR Chair

2.1. Updates from ACER

The Director updated members on the state of play of the 2022 EU budget negotiations and outreach efforts. Briefly, whilst the official position of the Council (formally adopted on 6 September) and the compromise amendments voted by the EP BUDG Committee on 28 September did not foresee changes to the 2022 ACER budget, the EC opinion on the draft PD for 2022-24 and the Legislative Financial Statement (both issued on 5 October) concluded that ACER can only fulfil its role under EU law with 25 additional FTEs over the remaining MFF period (2022-2027), proposing to add 11 FTEs (3 TA AD, 1 TA AST4, 1 CA FGIV and 6 SNEs) to its 2022 budget proposal, and this was formalised by an amending letter presented to the budgetary authority on 11 October. The EP subsequently agreed its mandate for the budget negotiations on 20 October and the process should conclude in November.

The Director also referred to the EC Communication of 13 October entitled “Tackling rising energy prices: a toolbox for action & support,” which tasks ACER with an assessment of the benefits and drawbacks of the existing electricity market design by April 2022, with a preliminary assessment of the situation in the electricity market to be completed by mid-November.

The BoR took note of the outcome of the BoR electronic procedure for the ACER decision to withdraw Decision No 08/2021 on the definition of System Operation Regions, which was conducted in two rounds ending 13 October 2021. During the first round, no proposal for amendments/comments was received. During the second round, 24 members participated and all voted in favour of the proposal. The BoR favourable opinion was provided by consensus of the members participating in the electronic procedure.

2.2. Updates from the BoR Chair

The BoR Chair drew members’ attention to the fact that the January BoR meeting has been changed to a virtual meeting, the meeting in Paris having been postponed to April.

3. Delivering on the wider Energy Union from a regulatory perspective

3.1 Updates on the EU Green Deal and other EC updates

Mr Lessenich reported on recent developments with respect to EC initiatives relating to the EU Green Deal and others relevant to the energy sector. The EC is working to finalise its legislative

proposals relating to methane emissions and the hydrogen and decarbonised gas market package by mid-December. Trilogues have started with respect to the revision of the TEN-E Regulation. The co-legislators are also currently discussing the revision of the Energy Efficiency and Renewable Energy Directives.

On the high energy prices, which were also discussed in the European Council last week, the EC issued a communication setting out the measures that Member States can take to react to the situation in the immediate term (e.g. measures to protect vulnerable consumers, fiscal provisions to reduce consumer energy bills), as well as measures that can be taken at EU level, including in the medium-term. Two issues of relevance to ACER are: firstly, REMIT is mentioned in the communication, which is not an indication that there is market manipulation, but because it is important to keep the situation tightly under control (and incidentally, this illustrates the need for additional human resources for the ACER REMIT team). Broader monitoring activities are also important and encompass abuse of dominance monitored by DG COMP. Secondly, the reassessment of the current market design to be completed by April, but given the urgency, energy ministers have called for a first update on the situation in mid-November.

The thanked Mr Lessenich for the updates and opened the floor for discussion.

4. Items for BoR opinion/approval/agreement

4.1. ACER Opinions on draft PCI lists

According to Article 3 of Regulation 347/2013, a Union list of Projects of Common Interest (PCIs) shall be established every two years, and the NRAs and if necessary ACER shall check the consistent application of the criteria and cost-benefit analysis (CBA) methodology and evaluate the cross-border relevance of the PCIs. On 29 July 2021, the European Commission submitted the draft regional lists of proposed electricity and gas PCIs for opinion to be issued within 3 months (by 29 October). Both opinions (on electricity and gas PCI projects) state that ACER is unable to confirm the consistent application of the criteria in Regulation 347/2013 and of the cost-benefit analysis to all the candidate projects. The AWG advices have been circulated.

As no proposal for amendment/comment was received by the deadline of 20 October, the BoR Chair asked whether there was consensus to issue a BoR favourable opinion.

The BoR favourable opinion for both opinions was provided by the requisite two-thirds majority of members present and represented.

4.2. ACER Decision on the Core common capacity calculation methodology for long-term timeframes

Failing agreement, all regulatory authorities of the Core CCR requested that ACER adopt a decision on the proposal for the long-term CCM (LT CCM) submitted by the TSOs of the Core CCR. The draft decision and AEWG advice were circulated, and by the deadline of 20 October, three proposals for amendment were submitted. The deadline for the decision is 3 November 2021.

The BoR Chair opened the vote on the first proposal for amendment (AM1), which did not reach the required majority.

The BoR Chair opened the vote on the second proposal for amendment (AM2), which did not reach the required majority.

The BoR Chair opened the vote on the third proposal for amendment (AM3), which did not reach the required majority.

Taking account of the large support for AM1, the Director decided to withdraw his proposal and submit a revised proposal to BoR FO by means of electronic procedure. The BoR unanimously agreed to the use of the electronic procedure for that purpose.

4.3. ENTSO-E's Summer Outlook 2021

This Opinion concerns the seasonal adequacy outlook report for summer 2021 as well as a review of the main events during the 2020/21 winter season published by ENTSO-E on 31 May 2020 and submitted to ACER on 7 June 2021 (the latter on a voluntary basis).

ACER considers that the documents are broadly consistent with the objectives set out in Article 4(3)(b) of Regulation (EU) 2019/943. The Summer Outlook 2021 represents an incremental improvement compared to the previous seasonal assessment; however, ENTSO-E failed to implement the methodology for short-term and seasonal adequacy assessments (STSAA) within the required timeframe. The AEWG advice has been circulated.

As no proposal for amendment/comment was received by the deadline of 20 October, the BoR Chair asked whether there was consensus to issue a BoR favourable opinion. The BoR favourable opinion was provided by consensus of the members present and represented.

4.4. Position Paper on Gas Market Decarbonisation – main messages

The AGWG Chair presented the main messages of the draft position paper on Gas Market Decarbonisation for endorsement, recalling that the EC is currently finalising its proposal for revising the gas package (planned for mid-December).

The BoR Chair thanked the AGWG Chair for the presentation and opened the floor for discussion.

The BoR agreed that the slides will be revised to reflect the October BoR discussion, and that the BoR will endorse the main messages of the position paper by way of electronic procedure.

4.5. ACER Decision on harmonised allocation rules

On 25 June 2021, ACER received the all TSOs' proposal to amend the harmonised allocation rules for long-term transmission rights (LTTRs). It was agreed with all TSOs that ACER will issue its decision by the end of November, so as to allow the application of the new rules to the yearly LTTR auctions to take place in December 2021.

The BoR agreed to the use of EP with the view to adopting the ACER decision by 30 November by consensus of the members present and represented.

**Decisions/
Conclusions**

4.1 The BoR provided its favourable opinion on ACER's Opinions on the draft PCI lists by the requisite two-thirds majority of members present and represented.

4.2 The BoR unanimously agreed to the use of the electronic procedure to issue its opinion on the ACER Decision on the Core common capacity calculation methodology for long-term timeframes.

4.3 The BoR provided its favourable opinion on ACER's Opinion on ENTSO-E's Summer Outlook 2021 by consensus of the members present and represented.

4.4 The BoR unanimously agreed to use the electronic procedure to endorse the main messages of the ACER-CEER position paper on Gas Market Decarbonisation.

4.5 The BoR unanimously agreed to use the electronic procedure to issue its opinion on the upcoming ACER Decision on harmonised allocation rules.

5. General & strategic topics

5.1 REMIT strategy

Following members' call for a strategic discussion on REMIT, the ARC Co-Chair presented key REMIT updates.

The BoR Chair thanked Ms Groebel for her presentation and opened the floor for a discussion.

5.2 Recent surge in energy prices

Members further discussed this topic following the EC update under item 3.1.

6. AWG key issues

6.1. AWG/ARC key issues

The AWG Chairs presented key updates with respect to ongoing work in their respective Working Groups.

The BoR Chair thanked the AWG Chairs for their updates.

6.2. ACER Decision on SIDC data collection under REMIT

In early July, ACER sent the Single Intraday Coupling (SIDC) Nominated Electricity Market Operators (NEMOs) an official letter requesting the submission of additional SIDC data pursuant Article 6(8) of REMIT Implementing Regulation. This is necessary to enable ACER to comprehensively monitor the SIDC market and, therefore, completely fulfil its mandate as set out in Article 7(1) of REMIT and Article 12 of the Regulation (EU) 2019/942 (ACER Regulation). ACER updated members on next steps.

6.3. ERAA 2021

The Director referred back to previous BoR discussions on the unsatisfactory quality of the European Resource Adequacy Assessment (ERAA) 2021 and ACER's concerns around long-

term ERAA implementation. The Director also updated members on the outcome of the high-level meeting involving ACER/NRAs, the EC and ENTSO-E that took place on 28 September.

6.4. 10th Market Monitoring Report – Retail and Consumer Protection volume

The Clean Energy Package places an additional focus on the role of the consumer in the transition and opens up opportunities for the energy consumer, which are examined in this report along with traditional retail market and consumer protection metrics and the impact of Covid-19 on energy consumers. The Retail and Consumer Protection volume will be presented at an ACER-CEER webinar on 10 November 2021, and subsequently to the EP ITRE Committee on 6 December.

6.5. 10th Market Monitoring Report – Electricity wholesale volume

The Director and Mr Gence-Creux presented the electricity wholesale volume for discussion, highlighting a number of novelties, including data on barriers to price formation and entry and participation of new and small market players and as regards security of supply, a first assessment of interruptibility schemes. The Electricity Wholesale Market Monitoring Report will be presented at an ACER-CEER webinar on 5 November 2021, and subsequently to the EP ITRE Committee on 6 December.

6.6. 2nd Monitoring Report on Incremental Capacity Projects

Mr Hesseling presented the report, which contains findings on the second EU-wide incremental-capacity-process cycle that ran from July 2019 to July 2021. The report notes that both in the first and second iterations of the incremental-capacity process cycle, few projects completed some or all stages of the incremental process, indicating overall low market interest in new gas cross-border transmission capacity.