

108th ACER Board of Regulators Meeting

8 June 2022

Rome (and by video/audio conference)

MINUTES

Country/Institution	Name ^[1]	Country/Institution	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch O: Christine Materazzi-Wagner O: Katharina Ledermann-Tappeiner	Latvia (PUC)	M: Rota Šņuka Alda Ozola (Chair)
Belgium (CREG)	M: Koen Locquet A: Geert Van Hauwermeiren	Lithuania (NERC)	M: Renatas Pocius
Bulgaria (EWRC)	M: Stanislav Todorov	Luxembourg (ILR)	M: Camille Hierzig
Croatia (HERA)	M: Željko Vrban	Malta (REWS)	A: Phyllis Mycallef O: Manuel Manuzzi
Cyprus (CERA)	O: Marilena Delenta (with proxy) O: Christina Zouvani (with proxy)	Netherlands (ACM)	A: Remko Bos O: Nora Meray
Czech Republic (ERO)	A: Jana Haasová O: Tomáš Kupčíha	Poland (URE)	A: Małgorzata Kozak O: Danuta Sierocinska
Denmark (DUR)	M: Carsten Smidt	Portugal (ERSE)	M: Pedro Verdelho A: Natalie McCoy O: Catarina Santos
Estonia (ECA)	M: Märt Ots A: Marilyn Tilkson	Romania (ANRE)	M: Dumitru Chirita O: Florin Tobescu (with proxy)
Finland (EV)	M: Simo Nurmi A: Anti Paananen	Slovakia (URSO)	M: Andrej Juris A: Mária Bronišová
France (CRE)	A: Jean-Laurent Lastelle O: Claire Hellich-Praquin O: Frank Heseler	Slovenia (AGEN-RS)	A: Bojan Kuzmič

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

Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Spain (CNMC)	M: Mariano Bacigalupo O: Gema Rico
Greece (RAE)	A: Dimitrios Psychoyios O: Angeliki Mourtzikou	Sweden (Ei)	A: Caroline Törnqvist O: Johan Roupe O: Fredrik Norlund
Hungary (MEKH)	M: Pál Ságvári A: Gergely Szabó O: Tamás Vörös (with proxy) O: Tamás Gyarmati	EEA-EFTA State Iceland	A: Hanna Björg Konráðsdóttir
Ireland (CRU)	M: Jim Gannon	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Cariello Francesco O: Ilaria Galimberti	EFTA Surveillance Authority (ESA)	O: Anne De Geeter
ACER	Christian Zinglensen, Christophe Gence-Creux, Dennis Hesseling, Martin Godfried, Marcel Vochem, Fay Geitona, Mitsuko Akiyama		
European Commission	Christof Lessenich, Michael Schütz		
CEER	Charles Esser		

1. Opening

1.1. Approval of the agenda

The agenda of the 108th BoR meeting was approved with the addition of an update from BNETZA.

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 107th BoR meeting

The minutes of the 107th BoR meeting were approved and sent to the European Parliament on 20 April.

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 informed the BoR of latest ENTSO-E updates for opening up electricity trade and gradual start of commercial exchanges with Ukraine following synchronisation of the Continental EU power system with the power system of Ukraine.

The members were informed of the outcomes of the following BoR electronic procedures.

The BoR electronic procedure for ACER's final assessment of the electricity market design was conducted in two rounds ending 22 April. 24 members participated in the last round and endorsed the document.

The BoR electronic procedure for the ACER Decision on the RCC "Training and certification of staff" methodology was conducted in three rounds ending 13 May. 19 members participated in the last round and the proposal was adopted by consensus.

The BoR electronic procedure for the ACER-CEER position paper on the Hydrogen and Decarbonised Gas Markets was conducted in two rounds ending 17 May. 22 members participated in the last round and the paper was endorsed by the requisite majority. The BoR electronic procedure on the public executive summary for the ACER-CEER position paper on the Hydrogen and Decarbonised Gas Markets was conducted in two rounds ending on 1st June. 17 members participated and the executive summary was endorsed by the requisite majority.

2.2. Updates from the BoR Chair

The BoR Chair informed members of a letter from ENTSO-E raising the issue of cost recovery in respect of 2023 budget and beyond.

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

3.1. EC updates

Mr Lessenich reported on the European Commission Communication of 18 May entitled REPowerEU Plan which followed the European Council mandate with the objective to transform Europe's energy system ending the EU's dependence on Russian fossil fuels and tackling the climate crisis. It consists of a series of measures along with the Communication on short-term energy market interventions and long-term improvements and reforms to the electricity market design, as well as the EC legislative proposal of 23 March concerning gas storage. The former

addresses short-term market interventions in the electricity and gas markets that a number of governments anticipate until the end of the season while some national measures are already being implemented. The European Commission has approved today, under EU State aid rules, Spanish and Portuguese measures aimed at reducing the wholesale electricity prices in the Iberian market (MIBEL) by lowering the input costs of fossil fuel-fired power stations. Mr Lessenich referred to the chapter in the Communication on long-term electricity market reforms which is inspired by ACER's April assessment whilst expands to more areas and takes a deeper look on certain aspects. In terms of the next steps, the Commission will launch an impact assessment and engage with Member States, stakeholders and NRAs to adjust the legislative framework where necessary. Mr Lessenich invited NRAs to work together on these matters while the Commission will provide regular updates to the BoR of progress. He also mentioned the EU Council conclusions referring to the relevant work and assessment by ACER which has had an important impact on the current political debate.

Mr Lessenich also informed the BoR about the provisional agreement which has been reached by the co-legislators on 19 May on the EC legislative proposal which requires underground gas storage across the EU to be filled up. They agreed during inter-institutional negotiations that underground gas storage on Member States' territory should be filled to at least 80% of their capacity before the winter of 2022/2023 and to 90% before the following winter for 2023. The agreement crystallised a very swift debate at the level of co-legislators given the urgency driven by the overall geopolitical context.

The Chair thanked Mr Lessenich for the updates and the members for the exchange and feedback and concluded the discussion as follows: NRAs (who have a distinctive role from stakeholders) should continue to swiftly contribute to the debate at high level in a flexible (not a formal) format and expect to be part of the discussions with the institutions. She suggested reflecting on the internal organisation and format to allow a forum for discussion amongst NRAs in coordination with CEER on such matters. As a first step, there should be a meeting with the EC to understand their process and timing, in order to come back with a proposal on how to proceed. In terms of information sharing, a template to outline the areas for collecting feedback on national developments could be prepared with the view to sharing information amongst members.

3.2. Exchange of views on high energy prices & security of supply situation

The BoR Chair introduced a discussion on the high energy prices and security of supply situation in the EU and the role of ACER and NRAs in providing technical considerations to decision-makers. Members had a discussion around the overall context and an exchange of views on the situation in their countries: in particular, the areas for market measures and interventions to address high energy prices including their effect on markets, competition and consumers; preparations for a potential gas disruption; demand rationing and demand decreasing measures; reactions at national level to the April ACER Assessment; the relevance of gas market design adjustments; and ACER/NRAs' role and contributions to the current debate on short and longer term interventions.

4. Items for BoR opinion/approval/agreement

4.1. Annual Consolidated Report on progress of projects of common interest – PCI Monitoring Report Decision on System Operation Regions

Mr Hesseling presented the report produced pursuant to Article 5 of Regulation 347/2013, which provides a review of the progress of the electricity and gas PCIs over the period 1 February 2021 - 31 January 2022, and presented the key findings.

In the absence of proposals for amendments and comments, the BoR Chair asked members to vote on the BoR favourable opinion on the PCI Monitoring Report. The BoR favourable opinion was given by consensus of members present and represented.

4.2. ACER Annual Activity Report 2021: independent section on regulatory activities

The Director presented the consolidated Annual Activity Report (CAAR) which comprises an independent section on the regulatory activities of the Agency and a section on financial and administrative matters. The CAAR sets out the regulatory achievements in 2021. The Director briefly outlined the key regulatory achievements in 2021 with respect of the Internal Electricity Market, the gas sector and REMIT as outlined in the consolidated Annual Activity Report (CAAR). The BoR approved the CAAR by consensus of members present and represented.

Decisions/ Conclusions

4.1 The BoR provided its favourable opinion on the PCI Monitoring Report by consensus of the members present and represented.

4.2 The BoR approved the CAAR (as amended) by consensus of the members present and represented.

5. AWG key issues

5.1. AWG/ARC key issues

The AWG Chairs presented their respective updates.

The AEWG Chair raised the issue of the enforcement of transparency requirements involving NEMOs. She also referred to the trilateral meeting regarding Swiss participation in balancing platforms that took place on 19 May.

The AGWG Chair informed members about the outcome of the Madrid and Copenhagen Fora, the ACER-CEER webinar on gas storage and security of supply and ongoing work on the ACER-CEER reaction to the Hydrogen and Gas Market Decarbonisation Package.

To deliver the Cybersecurity Network Code on 14 July 2022, ACER also sought BoR agreement on the use of the electronic procedure. Members unanimously agreed.

5.2. Market surveillance strategy: Governance Section

Mr Vochem presented the Governance Section of the Surveillance Strategy.

5.3. Third MACZT report

Mr Gence-Creux explained that to discharge its duty to monitor the internal electricity market, ACER is preparing to issue a third report monitoring the levels of margin ("MACZT") compared to the 70% minimum target for the year 2021, and outlined the findings.

5.4. Updates on policy papers on Grid Connection and electricity forward market

Mr Gence-Creux presented ongoing work and next steps with respect to the ACER-CEER policy papers on (i) Grid Connection: decarbonisation efforts, most recent technological advancements and changes in the electric power and transport sectors require amendments to the European Grid Connection Network Codes (GC NCs); and (ii) electricity forward market: this paper is currently undergoing consultation and revisits the functioning of the electricity forward market in the EU, particularly with the idea of improving liquidity in small bidding zones and a number of problems identified with respect to long-term transmission rights (e.g. absence of secondary

market) and aiming to move towards a more integrated forward market. The key recommendations are aligned with those set out in the ACER assessment of the EU Wholesale Electricity Market Design.

5.5. Update on the ACER Decision on Bidding Zone Review

Following the results of the Locational Marginal Pricing (LMP) analysis carried out by TSOs, ACER will decide on the TSOs' proposal for alternative bidding zone configurations by 20 July. Mr Muruais-Garcia presented the background to the decision, the preliminary alternative configurations and next steps.

5.6. ECRB update

Mr Hesseling presented the key discussions held at the last meeting of the Energy Community Regulatory Board (ECRB) of 13 April and updates of ECRB activities including as regards the implementation of the gas and electricity acquis and a significantly increased role for ACER foreseen from the end of 2023 onwards.

Decisions/ Conclusions

5.1 The BoR agreed by consensus of those present and represented to use the electronic procedure for the initial round(s) for the submission and vote on any comments and amendments to the ACER opinion on the Cybersecurity Network Code.