

94th ACER Board of Regulators Meeting

13 October 2020

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)	
Belgium (CREG)	A: Geert Van Hauwermeiren	Lithuania (NERC)	A: Irma Vasarytė
Bulgaria (EWRC)	A: Evgenia Haritonova O: Georgi Dobrev	Luxembourg (ILR)	M: Camille Hierzig
Croatia (HERA)	M: Tomislav Jureković O: Natasa Mihajlović (with proxy)	Malta (REWS)	A: Phyllis Mycallef O: Manuel Manuzzi
Cyprus (CERA)	O: Marilena Delenta (with proxy)	Netherlands (ACM)	A: Remko Bos O: Wieger Wiersema
Czech Republic (ERO)	A: Jana Haasová O: Tomáš Kupčička	Poland (URE)	A: Małgorzata Kozak O: Sierocińska Danuta
Denmark (DUR)	M: Carsten Smidt A: Mads Lyndrup	Portugal (ERSE)	A: Pedro Verdelho O: Natalie McCoy
Estonia (ECA)	A: Marilyn Tilkson	Romania (ANRE)	O: Florin Tobescu (with proxy)
Finland (EV)	M: Simo Nurmi A: Antti Paananen	Slovakia (RONI)	A: Denisa Lanikova
France (CRE)	A: Jean-Laurent Lastelle O: Claire Hellich-Praquin O: Frank Heseler	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Spain (CNMC)	A: Esther Espeja O: Gema Rico
Greece (RAE)	M: Apostolis Gotsias A: George Paidakakis	Sweden (Ei)	M: Anne Vadasz-Nilsson A: Caroline Törnqvist
Hungary (HEA)	A: Gergely Szabó O: Ádám Krinszki	EEA-EFTA State Iceland	
Ireland (CRU)	M: Jim Gannon	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Francesco Cariello O: Ilaria Galimberti	EFTA Surveillance Authority (ESA)	O: Anne De Geeter

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

ACER	Christian Zinglensen, Christophe Gence-Creux, Dennis Hesseling, Martin Godfried, Fay Geitona, Rafael Muruais Garcia, Mitsuko Akiyama
European Commission	Florian Ermacora, Michael Schuetz
CEER	Charles Esser

1. Opening

1.1. Approval of the agenda

The Chair informed the BoR that the November BoR meeting and Away Day will be virtual meetings given that the vast majority of NRAs are bound by travel or other restrictions (in the light of the rules for assessing the possibility of a physical meeting within the context of the ongoing Coronavirus pandemic).

The agenda of the 94th BoR meeting was approved. The draft agenda has been sent to the European Parliament.

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

1.2. Minutes of the 93rd BoR meeting

The minutes of the 93rd BoR meeting were approved and sent to the European Parliament on 28 September.

Decisions/ Conclusions

1.1 The BoR approved the agenda.

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

2.1. Updates from ACER

The Director thanked members for their continuing support with regard to the 2021 EU budget negotiations and provided an update on the state of play and the current discussions at the Council and the European Parliament including the planning. The Director reiterated the need to pursue the efforts to reach out to national administrations in the next couple of weeks to convey ACER's added value in fostering efficient, competitive integrated energy markets for the benefit of consumers and to invite them to consider ACER's individual budget needs.

The Director also presented ACER's new logo as part of ACER's new digital identity with a premium on accessibility on various platforms and its efforts to engage further with NRAs and to bring ACER's work closer to stakeholders and policy-makers for the benefit of consumers. The logo reflects ACER's key values such as its European affiliation, the focus on cooperation with NRAs and its technical competence. A thorough revision was initiated this year to modernise the Agency's online design. The new website will continue to evolve gradually, with the aim of improving users' navigation and experience.

The Director referred to the decision of the Board of Appeal (BoA) regarding the definition of System Operation Regions (ACER Decision No 10/2020) and outlined the next steps regarding the timing for the preparation of the ACER decision for a discussion at the November BoR.

The BoR took note of the latest publications of the Agency since the last BoR meeting, as well as the outcomes of the following BoR electronic procedures (EPs).

The BoR EP on the ACER decisions on the Methodology for the European resource adequacy assessment and on the methodology for calculating the value of lost load, the cost of new entry and the reliability standard was conducted in three rounds ending on 25 September. 27 members participated. The BoR favourable opinion was deemed to have been provided by consensus and by the required majority respectively on the decisions on the Methodology for the European resource adequacy assessment and on the methodology for calculating the value of lost load, the cost of new entry and the reliability standard.

The BoR EP on the ACER decisions on the common methodology for redispatching and countertrading cost sharing for the CORE & SEE Capacity Calculation Regions was conducted in three rounds ending on 25 September. 25 members participated. The BoR favourable opinion did not reach the required majority and was not, therefore, provided.

The BoR EP on the BoR feedback on the upcoming EC decision on REMIT fees ended on 22 September.

26 members participated and agreed by consensus the written BoR feedback.

2.2. Updates from the European Commission

Mr Ermacora updated members on recent developments. On 17 September, the EC adopted its assessment of the EU-wide impact of Member State National Energy and Climate Plans (NECPs) for 2021-2030, in parallel with the proposals for a new 2030 Climate Target Plan.

The BoR Chair thanked the European Commission for their updates.

2.3. Updates from the BoR Chair

The BoR Chair informed the BoR about the preparations for the BoR Away Day scheduled for 17th November and the adapted agenda for a virtual meeting.

The BoR Chair also updated members on the ongoing work on the e-voting platform as well as the relevant budget aspects for its implementation.

Decisions/ Conclusions

2.3 The BoR agreed that the November BoR meeting and the BoR Away Day will take place as virtual meetings and agreed to the revised Away Day agenda. The BoR confirmed their support regarding the specifications for the e-voting platform.

3. Keeping sight of the wider Energy Union context

3.1. Update on the EU Green Deal & Roadmap

Mr Ermacora announced the reports to be issued by the EC the next day, notably the 2020 report on the State of the Energy Union, which will have several annexes or accompanying reports, including an internal market report, energy efficiency and RES progress reports, a report on competitiveness of key clean energy technologies in the EU, an energy prices and costs report, staff working documents assessing National Energy and Climate Plans, and an overview on Member States' energy subsidies. The EC will also issue energy poverty guidelines, an EU methane strategy and a Renovation Wave for Europe aimed at boosting the renovation of the building stock. The EC strategy on offshore RES is planned to be adopted in November, while the EC proposal for the TEN-E Regulation revision will be prepared before the end of the year.

4. Items for BoR opinion/approval/agreement

4.1. Opinion on ENTSOs' Scenario Report for TYNDP 2020

The Director and Mr Hesselting presented the draft ACER opinion on the ENTSOs' Scenario Report for the 2020 Ten-Year Network Development Plan (TYNDP). Article 30(1)(b) of Regulation (EU) 2019/943 and Article 8(3)(b) of Regulation 715/2009 require ENTSO-E and ENTSG, respectively, to adopt and publish a non-binding Union-wide ten-year network development plan biennially. Pursuant to Article 48(1) of Regulation 2019/943 and Article 8(10) of Regulation 715/2009, the electricity and gas TYNDPs shall include scenario development. Mr Hesselting noted the importance of the work on scenarios in identifying investment needs. ACER provides a number of recommendations in the draft Opinion for the immediate consideration in the TYNDP 2020 and for the TYNDP 2022 scenario development, and, in particular, its timeline, involvement of stakeholders, robustness and consistency.

The Chair informed the BoR that one comment has been submitted and opened the vote on the comment. 26 members participated. The comment did not reach the required two-thirds majority for its adoption.

Members were subsequently invited to vote on the initial proposal submitted by the Director for BoR favourable opinion. 26 members participated. The BoR favourable opinion was provided by the required two-thirds majority.

4.2. ACER Decision on the long-term capacity calculation methodology of the Baltic CCR

The Director presented the draft ACER Decision on the long-term capacity calculation methodology (CCM) of the Baltic Capacity Calculation Region (CCR). Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (the FCA Regulation) laid down a range of requirements on cross-zonal capacity allocation in the forward markets. These requirements also include the development of the CCM for the long-term time frames (LT) in each CCR in accordance with Article 10 of the FCA Regulation. The present Decision follows from the request of all the regulatory authorities of the Baltic CCR that ACER adopts a decision on the proposal for LT CCM, which the TSOs of the Baltic CCR submitted to all Baltic regulatory authorities for approval and on which those regulatory authorities could not agree.

The Chair invited members to proceed to the vote for BoR favourable opinion. 26 members participated and the BoR favourable opinion on the ACER decision was provided by consensus of the members present or represented.

4.3. ACER Decision on the Methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights

The Director presented the draft ACER Decision on the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights (LTTRs). Commission Regulation 2016/1719 establishing a guideline on forward capacity allocation (the FCA Regulation) laid down a range of requirements concerning costs and cost recovery of establishing capacity calculation mechanisms, the single allocation platform and particularly rules for ensuring firmness and remuneration of LTTRs. Pursuant to Articles 4(6)(g) and 61(3) of the FCA Regulation, all TSOs are required to jointly develop a methodology for sharing costs incurred to ensure firmness and remuneration of LTTRs (FRC methodology). Pursuant to Article 5(2) of Regulation 2019/942, where proposals for common terms and conditions or methodologies or their amendments, as the case might be, require the approval of all regulatory authorities, those proposals shall be submitted to ACER for revision and approval. The proposal was submitted to ACER on 23 April 2020. ACER is minded to approve the proposal subject to a number of amendments.

The Chair invited members to proceed to the vote for BoR favourable opinion. 26 members participated. The BoR favourable opinion was provided by the required two-thirds majority of the members present or represented.

4.4. ACER Opinion on ENTSO-E's Summer Outlook 2020 and Winter Review 2019/2020

The Director presented the draft ACER Opinion on ENTSO-E's Summer Outlook 2020 and Winter Review 2019/2020. On 15 June 2020, ENTSO-E published its annual summer adequacy outlook report for 2020 (Summer Outlook 2020) together with the review of the main events occurring during winter 2019-2020 (Winter Review 2019-2020). On 17 September, ENTSO-E submitted the Summer Outlook 2020 to ACER for its opinion, according to Articles 32(2) and 30(1) of Regulation 2019/943. The Outlook 2020 identifies no major adequacy risk in Europe. Pursuant to Article 4(3)(b) of Regulation 2019/942 and Article 30(1)(m) of Regulation (EU) 2019/943, ACER may provide an opinion to ENTSO-E on their seasonal adequacy assessments. ACER did not identify such elements in the report that would suggest that the Summer Outlook 2020 and the Winter Review 2019-2020 have negative effects on non-discrimination, effective

competition, and efficient and secure functioning of the electricity internal market, and consider that the report is in line with the requirements of Article 4(3)(b) of Regulation (EU) 2019/942.

The Chair invited members to proceed to the vote for BoR favourable opinion. 26 members participated and the BoR favourable opinion was provided by consensus of the members present or represented.

4.5. ACER Decision on ARERA - E-Control joint request for extension of the time period in respect of the exemption request from Alpe Adria Energia

The Director presented the draft ACER Decision: Article 63 of Regulation (EU) 2019/943 on the internal market for electricity provides for the possibility to exempt, upon request, new interconnectors from certain requirements of Regulation (EU) 2019/943 and Directive (EU) 2019/944. According to Article 63(1), (4) and (5) of Regulation (EU) 2019/943, the regulatory authorities of the Member States concerned or, where they have not been able to reach an agreement within six months from the date on which the last of those regulatory authorities received the request for exemption, ACER shall decide on the request for exemption.

The draft decision follows from the request of E-Control and ARERA to extend the six-month period for reaching an agreement on the request of Alpe Adria Energia srl for an exemption under Article 63 of Regulation (EU) 2019/943 of the 220 kV interconnection power line between Somplago, Italy and Würmlach, Austria, by six months according to Article 6(10) of Regulation (EU) 2019/942. ACER finds the request for extension until 5 February 2021 reasonable and appropriate.

The Chair invited members to proceed to the vote for BoR favourable opinion. 26 members participated. The BoR favourable opinion was provided by the consensus of the members present or represented.

**Decisions/
Conclusions**

4.1 The BoR provided its favourable opinion on the ACER Opinion on the ENTSOs' Scenario Report for TYNDP 2020 by the required majority of the members present and represented.

4.2 The BoR provided its favourable opinion on the ACER Decision on the long-term capacity calculation methodology of the Baltic CCR by consensus of the members present and represented.

4.3 The BoR provided its favourable opinion on the ACER Decision on the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights by the required majority of the members present and represented.

4.4 The BoR provided its favourable opinion on the ACER Opinion on ENTSO-E's Summer Outlook 2020 and Winter Review 2019/2020 by consensus of the members present and represented.

4.5 The BoR provided its favourable opinion on the ACER Decision on ARERA - E-Control joint request for extension of the time period in respect of the exemption request from Alpe Adria Energia by consensus of the members present and represented.

5. Cross-sectoral

5.1. Draft Outline of the Work Programme 2022

The Director presented the draft outline of the Work Programme 2022. According to the ACER Regulation 2019/942, each year, the Director shall prepare a draft programming document (PD) containing annual and multi-annual programming, and shall submit the draft programming document to the Administrative Board (AB) and to the BoR. The AB shall adopt the draft programming document following receipt of a favourable opinion of the BoR, and shall submit the draft programming document to the European Parliament, to the Council and to the Commission no later than 31 January. The draft outline includes a list of all foreseen tasks and deliverables along with their priority level.

Members took note of draft outline and next steps. The draft PD will be submitted to the December BoR for a favourable opinion and, subsequently, to the AB.

5.2. Next steps on the AWG RoP

The Chair updated members on the state of play regarding the adoption of the revised AWG RoP including the outstanding issues following the AB meeting. The BoR provided feedback. In terms of the next steps, the BoR will further discuss at the November BoR ahead of the Director tabling his proposal on the AWGs RoP.

5.3. 9th Market Monitoring Report – Electricity wholesale & Retail/consumer protection

The Director presented the Electricity Wholesale Markets as well as the Retail and Consumer Protection Volumes of the ninth Market Monitoring Report (MMR).

The Electricity Wholesale Markets volume presents the results of the monitoring of the performance of the internal market for electricity (IEM) in the European Union in light of existing EU Regulation. The Electricity and Gas Retail Markets and Consumer Protection Volume provides information on the current status of retail energy markets across the EU and the measures available to energy consumers. It deals with consumer energy expenditures and also the engagement options available to energy consumers within the EU and the Energy Community Contracting Parties. The Director presented the key findings of both volumes.

Members took note of the contents of the MMR.

6. Electricity

6.1. Important AEWG updates

Ms Materazzi-Wagner as the ACER Electricity Working Group (AEWG) Chair provided an update on ongoing work in the AEWG and the work by the CACM, INF, FCA and SOGC Task Forces.

Mr Muruais Garcia presented the next steps on the ACER decision on the methodology for the bidding zone review (BZR) which is expected around November and the subsequent ACER decision on alternative bidding zone configurations pursuant to Article 14(5) of the Electricity Regulation 2019/943. He also presented the underlying considerations.

The BoR took note of the updates and provided feedback.

The Director informed the BoR that ACER received a request of the Continental Europe Synchronous Area NRAs' for a three-month extension of their deadline for issuing the decision on the proposal for additional properties for frequency containment reserve, in accordance with Article 154(2) of the System Operation Regulation. The decision was originally due by 24 October 2020. Given the close deadline the BoR agreed to the use of an electronic procedure for providing its favourable opinion.

6.2. Next steps for the ACER decisions on a common cost sharing methodology for redispatching and countertrading electricity in the Core & SEE CCR

The Director presented the state of play of the Core and South East Europe (SEE) methodologies for redispatching and countertrading cost sharing (Article 74 of Capacity Allocation and Congestion Management Regulation (CACM)). The Director recalled the key elements of his previous proposals (submitted for BoR favourable opinion through an electronic procedure that completed on 25 September without achieving the required majority), and proposed a way forward. The BoR members provided feedback on the key elements of the forthcoming proposal.

As regards next steps, the Director aims to present a revised proposal for a BoR favourable opinion at the November BoR.

6.3. Update on the ACER decision on cross-border participation in capacity mechanisms

Mr Gence-Creux informed members on the upcoming ACER decision on cross-border participation in capacity mechanisms (second wave of adequacy topics). On 3 July 2020, ENTSO-E submitted its proposals for technical specifications for cross-border participation in capacity mechanisms to ACER pursuant to Article 26(11) of Regulation 2019/943. ACER shall approve these proposals based on the procedure set out in Article 27 of the same. Mr Gence-Creux presented the main goals of the draft ACER Decision on Cross-border participation in CRMs for an orientation discussion. The BoR took note of the update and provided feedback.

**Decision/
Conclusion**

6.1 The BoR unanimously agreed to the use of the electronic procedure to provide its favourable opinion on the decision to grant an extension to the Continental Europe Synchronous Area NRAs for issuing the decision on the proposal for additional properties for frequency containment reserve, in accordance with Article 154(2) of the System Operation Regulation.

7. Gas

7.1. Important AGWG updates

Mr Verdelho as the AGWG Chair provided an update on the ongoing work in the ACER Gas Working Group including progress on the Tariffs reports, and work from the Balancing Task Force including on a paper on fraud, Gas Infrastructure, Interoperability Task Force and the new convenor and the Capacity Allocation Mechanisms Task Forces.

8. Market Integrity and Transparency & Surveillance and Conduct

8.1 REMIT CG and AMIT WG updates

Ms Groebel as the AMIT WG Chair provided an update on the ongoing work in the ACER Market Integrity & Transparency Working Group.

Mr Godfried reported on this year's Energy Market Integrity and Transparency (EMIT) Forum, which took place on 9 October 2020 via Webex which had a very good turnout with more than 250 participants. He thanked the NRAs for their support and contribution to the Forum.

8.2 Update on the draft EC decision on REMIT fees

Pursuant to Article 32 of the ACER Regulation 2019/942, the REMIT fees and the way in which they are to be paid, shall be set by the Commission after carrying out a public consultation and after consulting the Administrative Board (AB) and the BoR. Both boards were formally consulted in September and the BoR provided its collective written feedback on the draft provisions of the upcoming EC decision. Mr Schuetz informed the BoR that the EC draft decision which has taken into account the BoR feedback, is under Inter Service consultation until 19 October. He also confirmed that the amount for the fees is additional to the EU budget contribution. The EC decision will be adopted in November given the need for translations in all languages. A key element is the implementation of the fee scheme and to this end a webinar is planned on 22 October. The Chair thanked Mr Schuetz for the update.