

Board of Appeal

Announcement of appeal¹

Case	A-002-2017
Appellant:	VERBUND AG (Am Hof 6a, 1010 Vienna, Austria) /“VERBUND AG”/
Appeal received on	17 January 2017
Subject matter	Appeal against the Decision of the Agency for the Cooperation of Energy Regulators (Trg republike 3, 1000 Ljubljana, Slovenia) /“ACER”/ No 06/2016 of November 17th 2016 on the Electricity Transmission System Operators Proposal for the Determination of Capacity Calculation Regions
Keywords	determination of capacity calculation regions, configuration of bidding zones, lack of competence, infringement of Articles 34,35,101 and 102 TFEU, infringement of Regulation (EC) No 714/2009 of 13 July 2009 and Regulation (EU) 2015/1222 of 24 July 2015
Contested decision	ACER Decision No 06/2016 of 17 November 2016
Language of the case	English

Remedy sought by the Appellant

The Appellant requests the Board of Appeal to:

1. annul Articles 5(1)(s) and (3) of Annex I of the Decision of the Agency for the Cooperation of Energy Regulators No 06/2016 of November 17 2016 on the Electricity Transmission System Operators Proposal for the Determination of Capacity Calculation Regions (“CCR Decision”); *in eventu* annul the entire CCR Decision.
2. suspend the application of Articles 5(1)(s) and (3) of Annex I of the CCR Decision; *in eventu* the entire CCR Decision until its decision on the request under point 1.

¹ Announcement published in accordance with Article 9 of Decision BoA No1-2011 Laying down the rules of organisation and procedure of the Board of Appeal of the Agency for the Cooperation of the Energy Regulators.

Board of Appeal

Pleas in law and main arguments

The Appellant's claims and arguments can be summarized as follows:

1. Lack of competence of ACER to decide on the implementation of a bidding zone border between Germany and Austria.
2. Unlawfulness of the CCR Decision because of procedural breaches.
3. Infringement of Articles 101 and 102 TFEU.
4. Infringement of Articles 34 and 35 TFEU.

Further information

The rules for the appeal procedure and other background information are available on the following section of the Agency's website:

http://www.acer.europa.eu/The_agency/Organisation/Board_of_Appeal/Pages/Rules-of-procedure.aspx