

**114<sup>th</sup> ACER Board of Regulators Meeting**  
**22 February 2023**  
**by video/audio conference**

**MINUTES FINAL**

Country/Institution	Name <sup>[1]</sup>	Country/Institution	Name
Austria (E-Control)	M: Wolfgang Urbantschitsch A: Dietmar Preinstorfer	Latvia (PUC)	M: Rota Šņuka O: Lija Makare O: Alda Ozola
Belgium (CREG)	A: Geert Van Hauwermeiren	Lithuania (NERC)	A: Irma Zdanienė
Bulgaria (EWRC)		Luxembourg (ILR)	A: Claude Hornick
Croatia (HERA)		Malta (REWS)	A: Phyllis Micallef O: Manuel Manuzzi
Cyprus (CERA)	O: Christina Zouvani	Netherlands (ACM)	O: Nora Meray
Czech Republic (ERO)	A: Jana Haasová O: Tomáš Kupčička	Poland (URE)	M: Rafał Gawin A: Malgorzata Kozak
Denmark (DUR)	M: Carsten Smidt A: Brigitta Bundgaard	Portugal (ERSE)	M: Pedro Verdelho A: Natalie McCoy O: Catarina Santos
Estonia (ECA)	A: Marilyn Tilkson	Romania (ANRE)	A: Florin Tobescu
Finland (EV)	M: Simo Nurmi	Slovakia (URSO)	A: Mária Bronišová
France (CRE)	A: Ivan Faucheux O: Claire Hellich-Praquin	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Germany (BNetzA)	M: Annegret Groebel O: Alexander Linov	Spain (CNMC)	M: Josep María Salas A: Esther Espeja
Greece (RAE)	M: Athanasios Dagoumas O: Konstantinos Prosmittrellis	Sweden (Ei)	M: Ulrika Hesslow A: Caroline Törnqvist O: Johan Roupe
Hungary (MEKH)	M: Pál Ságvári O: Tamás Gyarmati	EEA-EFTA State Iceland	
Ireland (CRU)	M: Jim Gannon	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Cariello Francesco	EFTA Surveillance Authority (ESA)	O: Ada Gimnes Jarøy

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

<b>ACER</b>	Christian Zinglensen, Dennis Hesseling, Volker Zuleger, Christophe Gence-Creux, Martin Godfried, Thomas Querrioux, Christos Kolokathis, Vasilis Papandreou, Csilla Bartok, Una Shortall, Fay Geitona, Mitsuko Akiyama
<b>European Commission</b>	Catharina Sikow Magny, Michael Schütz, Beatriz Laranjeira, Massimo Tognoni

## 1. Opening

### 1.1. Approval of the agenda

The agenda of the 114<sup>th</sup> 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 113<sup>th</sup> BoR meeting

The minutes of the 113<sup>th</sup> BoR meeting were approved and sent to the European Parliament on 6 February 2023.

### **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 and Ms Shortall informed members of the publication (31 January) of the European Court of Auditors' special report on internal electricity market integration and how it was received in the media.

Mr Gence-Creux presented the Monitoring Strategy prepared by ACER's Electricity Department. This document clarifies the strategy in respect of monitoring the implementation and effects of the Market Codes, the System Operation & Grid Connection Codes, as well as regulations and terms and conditions or methodologies (TCM) linked to these network codes, to apply it consistently over time and across Member States. Following the adoption of the TCMs, ACER's focus has shifted to their effective implementation.

Members took note of the outcome of the BoR electronic procedure for the ACER-CEER response to the EC consultation on the reform of the Electricity Market Design, which was conducted in two short rounds ending 10 February 2023. 22 members participated in the final round and endorsed the documents by consensus.

### 2.2. Updates from the BoR Chair

The BoR Chair updated members on the annual process for declaring conflicts of interest. The BoR Chair asked members to agree to change the venues of the March and September BoR meetings to Brussels and Madrid respectively. Members agreed by consensus.

**Decisions/  
Conclusions**

**2.2 The BoR unanimously agreed to hold the March and September BoR meetings in Brussels and Madrid respectively.**

### 3. Energy crisis

#### 3.1. EC Updates

- EC consultation on the long-term electricity market design adjustments – preliminary findings and next steps

Ms Sikow Magny informed the BoR that the EC public consultation (PC) on the longer term electricity market design (EMD) had ended on 13 February 2023. The 1369 replies submitted by different categories of respondents are being analysed. Following the end of the PC, the Commission also organised a well-attended workshop during which around 70 representatives intervened. Ms Sikow Magny shared some key takeaways including *inter alia* a broad recognition of the need to preserve the sophisticated and efficient market design that is in place in terms of short term markets (e.g. the marginal pricing design) to ensure security of supply and efficient dispatching. However, a large majority of the participants noted that short term markets need to be complemented by longer term price signals (efficient liquid forwards markets, Contracts for Differences (CfDs) and Power Purchase Agreements (PPAs)) whilst striking the right equilibrium with longer term tools. Other elements discussed were the need for flexibility given the volatility of RES, facilitation of demand participation and storage. Ms Sikow Magny also thanked ACER and CEER for their contribution to the PC.

In terms of the next steps, the Commission is currently considering the written submissions and is preparing its proposal. It will consider how to make short term markets more efficient (e.g. gate closure) as well as to how to complement them with longer term price signals and instruments such as PPAs, CfDs etc. In parallel, the key tools to accelerate RES deployment are being considered. On consumer empowerment and protection, the Commission is looking into a number of tools, such as energy sharing between neighbours, how to increase the role of demand response, how to ensure that all consumer contracts spell out the risks so that consumers can make informed decisions, the possibility for consumers to have more than one contract (fixed and dynamic e.g. for electric vehicles), the requirement to have a supplier of last resort etc. Lastly, the Commission is also looking into options to improve the REMIT framework and whether this should be a part of the proposals that will be tabled on 14 March pursuant to Article 194 of the Treaty.

The BoR Chair thanked the EC for the update.

- List of emergency measures

Mr Papandreou referred to the list prepared by ACER of emergency measures (covering gas and electricity) adopted in each Member State, which is intended for publication. ACER started collecting information on the emergency measures as part of the overall monitoring of security of supply back in November, and its scope and target gradually widened to include emergency measures aimed at high energy prices. This work is the starting point of an assessment of the measures to be published in July 2023.

The Director thanked members for their feedback on the data, the findings and the classification used and stated the next steps.

#### 3.2. ACER Report on the assessment of the effects of the Market Correction Mechanism

As per Regulation 2022/2578 EC, the European Securities Markets Authority (ESMA) and ACER will constantly monitor and review the functioning of the Market Correction Mechanism (MCM)

from its entry into force. ESMA and ACER shall assess the effects of the MCM on financial and energy markets and on security of supply, notably to verify whether the key elements of the MCM are still appropriate in light of the developments as regards the financial and energy market and security of supply, and submit their reports to the Commission by 1 March 2023. The Director presented the next steps for finalising the report.

This report follows the preliminary data report already published on 23 January. Mr Hesselting presented the background key findings concerning the observed results and market effects (comprehensive outlook of the effects of the MCM in terms of price evolution, flow development and trading developments); the extension of the market correction mechanism to other VTPs; and the review of the MCM design (in terms of the reference price, activation conditions (thresholds) and dynamic bidding limit). Lastly, the report assesses the potential risks with MCM implementation, updating the risks related to price evolution, flow and trading developments. Chapters 3 and 4 of the report are new.

Ms Bartok presented the analysis of key MCM design elements.

The BoR Chair thanked Mr Hesselting and Ms Bartok and opened the floor for discussion.

Mr Tognoni clarified the timing of the EC implementing act to define the technical details of the application of the MCM to derivatives linked to other VTPs: by 31 March 2023. The EC plans to have two Committee meetings during the first half of March to discuss the implementing act and to vote. The EC plans to share a draft of the implementing act with ACER by the end of next week.

#### 4. Items for BoR opinion/approval/agreement

##### 4.1. ACER Decision on ERAA 2022

Mr Kolokathis presented the draft decision on the 2022 European Resource Adequacy Assessment, which was circulated along with the AEWG advice. After extensive interactions with ENTSO-E, the decision proposes to neither approve, due to significant shortcomings, nor amend ERAA 2022, which would require significant time and resources, affect the timeline for developing future ERAAs, and be based on increasingly outdated scenarios.

In the absence of proposals for comments and amendments, the BoR Chair proceeded to the vote on the BoR favourable opinion. The BoR granted its favourable opinion by consensus of the 25 members present and represented.

##### 4.2. ACER Decisions on SAP, CIDM, FRC

Mr Gence-Creux explained that on 28 September 2022, TSOs had submitted proposals for amendments to the FCA methodologies including: the establishment of a Single Allocation Platform (SAP) (Article 49 of the FCA Regulation) and cost sharing methodology (Article 59 of the FCA Regulation) (SAP methodology); the congestion income distribution (CID) methodology (Article 57 of the FCA Regulation); and the methodology for sharing costs incurred to ensure firmness and remuneration of long-term transmission rights (FRC) (Article 61 of the FCA Regulation). Amending these methodologies for long-term flow-based allocation is a prerequisite for implementing the Core and Nordic capacity calculation methodologies in accordance with Article 10 of the FCA Regulation.

The draft decisions were presented for discussion.

The BoR Chair asked whether members agreed to the use of the electronic procedure to be launched after this meeting to meet the deadline of 28 March. Members unanimously agreed.

##### 4.3. Position paper on the consistency of cost benefit analysis methodologies (TEN-E)

Mr Hesseling explained that the updated TEN-E Regulation had tasked various entities with the development of separate Cost Benefit Analysis (CBA) methodologies for the various energy infrastructure categories: ENTSO-E for electricity transmission, including offshore grids, ENTSOG for hydrogen and the European Commission for energy storage, electricity smart grids, gas smart grids, electrolysers and carbon dioxide networks and facilities. The Agency is responsible for providing opinions on the ENTSOs' methodologies for CBA and regular opinions on draft lists of projects of common interest (PCIs), whose selection is based on the application of CBA methodologies. The position paper tabled for endorsement presents ACER's considerations in view of the need for consistency among all CBA methodologies.

The BoR endorsed the position paper by consensus of the 25 members present and represented.

## Decisions/ Conclusions

**4.1. The BoR provided its favourable opinion on the ACER decision on the 2022 European Resource Adequacy Assessment by consensus of the members present and represented.**

**4.2. The BoR agreed to the use of the electronic procedure for the ACER decisions on SAP, CIDM and FRC by consensus of the members present and represented.**

**4.3. The BoR endorsed the position paper on the consistency of cost benefit analysis methodologies (under the TEN-E Regulation) by consensus of the members present and represented.**

## 5. AWG key issues

### 5.1. AWG/ARC key issues

Members took note of the updates given by the AWG Chairs.

The AEWG Vice Chair updated members on current work including on project prioritisation; on the treatment of losses in the Inter-TSO compensation mechanism and the recommendations proposed; on the ENTSO-E's 10-year network development plan (TYNDP) 2022; and lastly, on ERAA 2023.

Mr Verdelho presented updates relating to the Gas Decarbonisation Package, on which a general approach is expected by the end of March.

Mr Gence-Creux informed the BoR of the approach envisaged in respect of the new ACER deliverable, the preparation of draft decisions for the EFTA Surveillance Authority (ESA). ESA is competent to adopt decisions in place of ACER in cases involving one or more EEA EFTA States, based on drafts prepared by ACER. EEA countries are required to implement the energy acquis, including the network codes and guidelines. The first decision relates to the proposal for adding the Norwegian bidding zone borders to the relevant Capacity Calculation Regions (to be submitted to the March BoR). While there is no legal requirement to seek BoR opinions on the draft decisions for ESA, the BoR will be informed each time the Agency prepares a draft decision for ESA to ensure transparency.

### 5.2. Consultation Document to update CBCA Recommendation

Regulation 347/2013 introduced cross-border cost allocation (CBCA) as a regulatory tool aimed at facilitating the implementation of PCIs. ACER issued its first CBCA recommendation in 2013 (updated in 2015) and started monitoring CBCA decisions. Article 16(1) of the revised TEN-E Regulation 2022/869 provides that by 24 June 2023, "the Agency shall adopt a recommendation for identifying good practices for the treatment of investment requests for projects of common interest. That recommendation shall be regularly updated as necessary, in particular to ensure

consistency with the principles on the offshore grids for renewable energy cross-border cost sharing as referred to in Article 15(1).

Mr Hesseling informed the members that the Agency is currently updating the 2015 CBCA recommendation (Recommendation 05-2015) and will shortly launch a public consultation.

### 5.3. Market monitoring report (electricity)

Mr Querrioux presented a document to be published this month as part of this year's Market Monitoring Report (MMR). The document provides an overview of EU wholesale electricity markets trends in 2022, assessing them against current EU goals. It will be followed by the publication (in July) of an analysis of emergency measures and of the evolution of cross-border capacity.

The monitoring focuses on electricity consumption and generation; the evolution of electricity prices across timeframes; the greenhouse gas emission intensity of electricity generation; and emergency measures.