

119th ACER Board of Regulators Meeting

25 October 2023

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 O: Katharina Ledermann-Tappeiner	Latvia (PUC)	M: Rota Šņuka O: Alda Ozola (Chair) O: Lija Makare
Belgium (CREG)	M: Koen Locquet A: Geert Van Hauwermeiren	Lithuania (NERC)	M: Renatas Pocius A: Irma Zdanienė O: Jelena Dilienė O: Benas Skublickas
Bulgaria (EWRC)	A: Blagoy Golubarev O: Borislava Petrakieva	Luxembourg (ILR)	M: Claude Rischette
Croatia (HERA)		Malta (REWS)	A: Phyllis Micallef
Cyprus (CERA)	O: Chrisitna Zouvani	Netherlands (ACM)	O: Nora Meray
Czech Republic (ERO)	A: Jana Haasová O: Tomáš Kupčíha	Poland (URE)	M: Rafał Gawin A: Malgorzata Kozak
Denmark (DUR)	M: Carsten Smidt A: Birgitta Bundgaard	Portugal (ERSE)	M: Pedro Verdelho A: Natalie McCoy
Estonia (ECA)	A: Marilyn Tilkson	Romania (ANRE)	A: Florin Tobescu
Finland (EV)	A: Antti Paananen	Slovakia (URSO)	A: Maria Bronisova
France (CRE)	A: Ivan Faucheux O: Claire Hellich-Praquin O: Natalia Baudry	Slovenia (AGEN-RS)	A: Bojan Kuzmič
Germany (BNetzA)	M: Annegret Groebel	Spain (CNMC)	M: Josep María Salas O: Gema Rico
Greece (RAE)	O: George Loizos O: Yuriy Bilen	Sweden (Ei)	M: Ulrika Hesselow A: Caroline Törnqvist O: Johan Roupe

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

Hungary (MEKH)	M: Pál Ságvári O: Tamás Gyarmati	EEA-EFTA State Iceland	
Ireland (CRU)	M: Jim Gannon O: Barry Hussey	Norway (NVE-RME)	A: Anne Dønnem
Italy (ARERA)	M: Clara Poletti A: Cariello Francesco O: Ilaria Galimberti	EFTA Surveillance Authority (ESA)	O: Ada Gimnes Jarøy
ACER	Christian Zinglersen, Csilla Bartok, Volker Zuleger, Martin Godfried, Thomas Querrioux, Patrick Luickx, Zoran Vujazinovic, Bart Vereecke, Una Shortall, Fay Geitona, Mitsuko Akiyama		
European Commission	Michael Schuetz		

1. Opening

1.1. Approval of the agenda

The agenda of the 119th BoR meeting was approved.

The draft agenda was sent to the European Parliament.

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

1.2. Minutes of the 118th BoR meeting

The minutes of the 118th BoR meeting were approved and sent to the European Parliament on 2 October 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

Members took note of the outcome of the BoR electronic procedure for the BoR favourable opinion on the ACER opinion on the draft list of projects of common interest – electricity, which lasted from 25 -28 September 2023. 16 members participated and unanimously voted in favour.

The Director updated the BoR on the recent visit of NEURC to ACER pointing to the key challenges faced by Ukraine and some operational elements in terms of ACER support. Despite the key challenges faced by Ukraine, they demonstrate an inspiring commitment for reconstruction and reforming of their energy sector driven by their forward-looking ambition for EU membership.

2.2. Updates from the BoR Chair

The BoR Chair announced that the BoR Chair and Vice Chair elections will be held in December. Candidates will be invited to express their interest to the BoR Secretariat between 17-27 November. Members unanimously agreed on the election process as outlined in document 2.2.

The BoR Chair also announced that the AEWG Chair's term is coming to an end in December and that the call for nominations will be opened in November.

**Decisions/
Conclusions**

2.2. The BoR agreed on the process to be followed for the election of the BoR Chair and Vice Chair.

3. Wider Energy Union

3.1. EC Updates

- Negotiations relating to the legislative proposals for long-term electricity market design adjustments & REMIT revision

Mr Schuetz presented some key updates on behalf of the Commission. On the EMD reform he stated that the Council having agreed its general approach on 17 October, the trilogues for the electricity market design (EMD) reform have started progressing at a quick pace given the Spanish Presidency aspiration to conclude the negotiations until Christmas. Amongst the most contentious issues are the provisions regarding Power Purchase Agreements (PPAs) and Contracts for Difference (CfD).

Mr Schuetz also reported about the state of play of the REMIT revision: the 2nd trilogue is scheduled tomorrow. The main contentious points pertain to the proposal for market participants resident or established in a third country to declare an office in a Member State in which they are active and register with the national regulatory authority of that Member State or designate a representative (as per the Council mandate); as well as the powers of ACER (the European Parliament mandates ACER to investigate cases involving 2 Member States (versus three as per the Council's mandate) and to have sanctioning powers.

- European Wind Power Action Plan

Mr Schuetz informed the BoR that on 24 October, the EC released a European Wind Power Action Plan to ensure clean energy transition along with industrial competitiveness and a Communication on delivering on the EU offshore renewable energy ambition. Key features of these initiatives are *inter alia* the acceleration of deployment through faster permitting and improved, more harmonised, auction design. This year's State of the Energy Union Report was released on the same day.

- Joint European Gas Purchase Platform

Mr Schuetz stated that the platform aims to support more coordinated purchase of natural gas at European level and to implement demand aggregation to contribute to sufficient and diversified gas supplies; it is a joint purchasing mechanism.

The Director queried whether the gas purchase platform will be kept as a more structural feature of the market to address lack of liquidity. In response to this and generally on the future of the Emergency Regulations or the inclusion of certain provisions in ordinary legislation, Mr Schuetz reported that at this stage no decision has been taken: The Market Correction Mechanism is valid until early 2024 and the co-legislators of the gas decarbonisation package plan to have a final trilogue at the end of November; in the context of the gas decarbonisation package also demand aggregation is being discussed for which the future of the gas purchase platform will be considered.

- Reviews of EU energy crisis legislation

Mr Schuetz informed the BoR that the EC had undertaken an assessment of the effects of the Regulation enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders (Solidarity Regulation). Mr Schuetz also reported that on the emergency Council Regulation on permitting to accelerate renewable energy

deployment there is an ongoing review in the context of the ongoing assessment on the need to prolong the validity of the Emergency Regulations while key aspects are being introduced to the Renewables Directive. He also mentioned that on 17 October, the EC adopted a proposal for the revision of the Alternative Dispute Resolution Directive.

- Other updates

The Chair invited the Commission to provide an update on the investigation of the German gas storage neutrality charge set up under the German Energy Industry Act, which allocates costs to German end users and Interconnection Points (IPs) based on the idea that users in other networks can benefit from the German storage measures. Mr Schuetz stated that the Commission is still investigating the issue and is in contact with the German authorities but could not provide further details on the pilot procedure that started a couple of weeks ago.

The Commission was also invited to comment on the state of play of the Bidding Zone Review (BZR), about which ACER was informed that the BZR study in Continental Europe is suffering from additional delay. The EC is concerned by the delay; despite the importance of quality and hence the flexibility provided thus far, there must be a firm, credible delivery date lest enforcement should be considered. The EC is keen to work with NRAs to ensure a credible delivery date.

3.2. Update on the leak in the Balticconnector gas pipeline

Mr Paananen explained that on 8 October, the Finnish and Estonian gas TSOs observed an unusual drop in pressure in the Balticconnector offshore gas pipeline (commissioned in December 2019 as an EU project) between the countries and based on the abnormal pressure drop, a leak in the pipe was suspected, and the decision to isolate the pipe section was taken. Balticconnector's valves were quickly closed and thus the supposed leak was stopped. On 10 October, the Finnish Border Guard identified the location of leak in the submarine section of Balticconnector gas pipeline in Finland's economic zone. The leak was not due to normal operation. Led by Finnish National Bureau of Investigation, the authorities in Finland have also launched a criminal investigation into the matter, which is ongoing.

The Finnish gas TSO is also inspecting the entire offshore pipeline to better understand the situation and has published a preliminary estimate of a repair schedule, according to which it can be assumed that the planning of the repair work, the mobilization of the necessary underwater equipment and the actual repair measures, including the inspection of the repaired pipe section and commissioning, will last at least five months. Therefore, the earliest possible commissioning date of the Balticconnector pipeline would be at the beginning of April 2024. As a result, Finland has no gas pipeline interconnections available (e.g. to the Baltic states to make it possible to import gas from the Inčukalna underground gas storage in Latvia) during the winter period. Import of gas from Russia has been suspended since May 2022. Thus, injection of gas to the Finnish gas network will be done via the Inkoo LNG Terminal, which was commissioned in January 2023, and via smaller LNG terminal in Hamina, which was commissioned about a year ago in October 2022. Everything is imported as LNG mainly, and only a small amount of biogas is injected into the grid. Inkoo and Hamina LNG terminals have enough capacity and the ability to deliver the gas Finland needs including in the winter months. It is important to schedule and reserve slots for LNG cargoes at the terminals to ensure uninterrupted gas deliveries. Capacity has now been reserved until mid-December and will be used in the most neutral and fair way possible. The role of natural gas in electricity generation in Finland is very low (~1% in 2022). During peak load situations, electricity generation based on gas might be needed. Mr Paananen concluded that the state of Finland's gas and electricity system is stable and the supply of gas is secured (mainly for the usage by the chemical and paper industry). Another authority competent as per the gas SoS Regulation declared early warning in May of 2022 when Russian imports were

suspended and as reported after the BoR meeting, on 27 October, the National Emergency Supply Agency declared the alert level (the 2nd crisis level) in the Finnish gas system.

The BoR Chair thanked Mr Paananen for the presentation and noted the importance of considering ways of assessing such new risks and of sharing views at technical level.

4. Items for BoR opinion/approval/agreement

4.1. Appointment of the AGWG Vice Chairs

As announced at the last BoR, the AGWG Vice Chairs' terms ended on 30 September and nominations were opened at the GWG for candidates to express their interest by 13 October. Both Vice Chairs expressed their interest in pursuing their work as Vice Chairs. In accordance with Article 2.3 of the Working Group Rules of Procedure, the Director and the BoR (after consulting the Chair) jointly reappointed Mr Esnault and Mr Maes as the AGWG Vice Chair(s) at the October BoR.

4.2. ACER Communications Strategy

Pursuant to Article 22(5)(g), the BoR is to provide an opinion to the Administrative Board (AB) on the communication and dissemination plans referred to in Article 41, which is then adopted by the AB.

Ms Shortall presented the 2024-26 strategy, which: builds on previous objectives and overarching communication principles; consolidates external communications including through new tasks; focuses on data and digital transformations to make ACER a more forward-looking and data-driven organisation; and mainstreams changers into corporate culture via internal communication. She elaborated on the main topics covered in the Communications Strategy, including: internal communication; external communication; and stakeholder management.

Members commended on the importance of defending the European energy markets and ACER's continued efforts to offer insights to decision-makers grounded in data.

Members were invited to provide written feedback within 2 weeks following this meeting, which will subsequently be shared with the Administrative Board. The Communications Strategy will be presented for approval at the December AB meeting so that it can be implemented from the start of 2024.

Decisions/ Conclusions

4.1. The BoR and the Director jointly reappointed Mr Maes and Mr Esnault as the AGWG Vice Chairs for a period of two years.

4.2. The BoR will submit any written feedback on the ACER Communications Strategy within two weeks of this meeting.

5. AWG key issues

5.1. AWG/ARC key issues

Members took note of the written and oral updates given by the AWG Chairs.

The AEWG Chair reported on: the conclusions of the workshop on infrastructure development held on 23-24 October; an upcoming workshop on ENTSO-E resources planned for 30 November; the Network Code on Cybersecurity (NCCS) expected to enter into force early next year, with new tasks for ACER and competent NRAs; ongoing discussions on document collaboration using MS TEAMS; and announced the new co-chair of the CACM/FCA TF. Regarding the Network Code on Demand Response (NCDR), the AEWG Chair informed

members that the public consultation on the draft NCDR had been launched (29 September - 10 November) and that the last drafting committee meeting is planned on 29 January, after which the NCDR will be submitted to ACER on 8 March 2024. ACER then has 6 months to submit its recommendation to the EC.

The AGWG Chair started by thanking the newly reappointed Vice Chairs for their commitment, and gave an update on the ongoing trilogues for the Gas Package.

5.2. Market Monitoring Report: market integration volume (electricity)

Mr Querrioux presented the findings of the report. The market integration volume details the progress achieved despite the crisis (e.g. liquidity further decreased, partly due to increased risk mitigation requirements leading to reduced trading, but 2022 saw the go-live of new balancing platforms) and how market integration played a key role in ensuring resilience during the crisis. The report covers all timeframes, with a new focus on forward and balancing markets as the next important steps in market integration. The report also analyses the price incidents on the balancing platforms as well as the significant increase in congestion income. Cross-zonal capacity being the main challenge for market integration, the report sets out a number of recommendations on this and other topics. The report also details developments in the Energy Community. The findings will be presented at a workshop planned for 7 November.

5.3. ACER decision on amended ID Capacity Calculation Methodology

The hearing for the second and third amendments to the Core Intraday (ID) Capacity Calculation Methodology (CCM) took place in the second half of August and was discussed at the September AEWG meeting, following which it was agreed that the timeline for the Core ID CCM should be extended beyond the deadline of 4 October. Following discussions at the October AEWG meeting, it was further decided that the decision should be submitted to the December BoR.

Mr Vujazinovic updated members on the state of play and next steps.

5.4. Draft outline of the Programming Document 2025

The Director presented the draft outline of the Programming Document 2025, which outlines the tasks to be performed in 2025, focusing on the Agency's external outputs (the full scope of activities, including those pertaining to administrative and other tasks, will be presented in the Agency's Work Programme (WP) 2025 forming part of the Draft Single Programming Document (SPD) 2025-2027). The draft outline indicates activities in connection with: the Internal Electricity Market; the Internal Gas Market, Decarbonised Gases and Hydrogen; Infrastructure & Security of Supply; Market Information and Transparency; and Market Surveillance and Conduct with associated priority levels 1A (tasks which are critical for a competitive internal energy market or security of supply and which should be delivered in a comprehensive way and approached proactively), 1B ("reactive" tasks where ACER has to prepare and adopt individual decisions due to a referral from national regulatory authorities following failure to reach agreement or as otherwise stipulated by EU legislation) and 2 (tasks which are of lower importance, but need to be undertaken to comply with EU legislation). There are new objectives and tasks in relation to activity 3 (infrastructure and security of supply), including: objectives 6 (on ensuring the solid design and implementation of the framework to assess electricity resource adequacy in Europe in line with the ongoing discussions in the framework of the market design reform, where streamlining the ERAA methodology may be required) and 8 (ensuring a solid methodology to assess flexibility needs at European level: Decision on ENTSO-E and EU DSO's proposal on the methodology to assess the needs for flexibility in electricity systems). For activity 4 (Market Information and Transparency), specifically in respect of collecting, handling, processing and analysing REMIT Information (REMIT fee-funded activities), ACER will implement the changes from the REMIT revision and prepare for revised and new REMIT Implementing Acts. The Director clarified that the new activities will depend on the outcome of the ongoing interinstitutional negotiations.

