

**Recommendations
of the Agency's Board of Regulators
following the European Commission's evaluation of the activities of the Agency for the
Cooperation of Energy Regulation (22.1.2014 C(2014) 242 final)**

19/02/2014

1 Introduction

This Document includes the Recommendations of the ACER Board of Regulators (BoR) to the European Commission (EC) with regard to its evaluation of the activities of the Agency for the Cooperation of Energy Regulation (22.1.2014 C (2014) 242 final) under Article 34 of Regulation 713/2009/EC¹.

The document includes:

- An executive summary (chapter 2);
- A recap of the key conclusions and recommendation of the Commission's evaluation (chapter 3);
- The principal conclusions and Recommendations of the BoR (chapter 4);
- A more detailed assessment by the BoR (chapter 5);
- Appendix 1 which compiles the list of public acts issued by ACER to date;
- Appendix 2 which provides information on the Board of Regulators by way of background.

In addition to the key conclusions and Recommendations included below, the BoR will further consider how to reflect the outcome of this evaluation in its internal working arrangements, its proposals on the Agency's work programme for 2015 and, where appropriate, in taking actions in other areas.

2 Executive summary

The Agency's Board of Regulators (BoR) supports the general thrust of the European Commission's (EC) Evaluation Report. ACER has correctly focused – and continues to do so –

¹ Article 34(1), Regulation 713/2009/EC: "*The Commission, with the assistance of an independent external expert, shall carry out an evaluation of the activities of the Agency. That evaluation shall cover the results achieved by the Agency and its working methods, in relation with its objective, mandate and tasks defined in this Regulation and in its annual work programmes. The evaluation shall be based on extensive consultation in accordance with Article 10.2. (2) The Commission shall submit the evaluation referred to in paragraph 1 to the Agency's Board of Regulators. The Board of Regulators shall issue recommendations regarding changes to this Regulation, the Agency and its working methods to the Commission, which may forward those recommendations, together with its own opinion as well as any appropriate proposal, to the European Parliament and the Council.*"

on the right priorities during its first three years of operation. From a standing start, its tasks have been carried out efficiently, effectively and in a timely manner. Its achievements are notable against the tight deadlines, increasing tasks and challenging policy context, particularly given the limited resources the Agency has had at its disposal. The BoR also agrees with many stakeholders' confirmation that ACER's high reputation for impartiality and independence is fully merited.

A significant number of Framework Guidelines and Network Codes have been developed and subsequently have been, or soon will be, submitted to the Comitology procedures. Appendix 1 compiles the main Acts of the Agency to date, a record of significant achievement and a real contribution towards the completion of the internal energy market. In parallel, early implementation of the network codes through the Regional Initiatives has also been also pursued. Cooperation with the ENTSOs and stakeholders throughout the process has enriched the discussions and contributed towards developing a common understanding of the issues to be addressed. Extensive preparations have been undertaken or are underway to implement REMIT². Agency staff have worked closely with national regulatory authorities (NRAs) throughout this process, including in undertaking the preparatory work under the TEN-E Regulation³.

In its title, its mission and its structure, ACER has at its heart cooperation between, and with, NRAs. As an Institution of the European Union, ACER was established to deliver greater coordination across national borders, thereby filling a regulatory gap in the delivery of effective regulatory oversight at Community level. ACER also complements the role and duties of NRAs within their own Member States. That cooperation has been clearly in evidence, both in the role of the BoR itself and in the Agency's working groups (AWG). The BoR, itself part of ACER, has contributed to the Agency's effectiveness particularly in its speedy, positive decisions, notably in considering the Director's proposals on which the Board's favourable opinion must be given. Similarly, experts from many NRAs have been actively involved in the AWGs throughout the first 3 years of ACER's life. They continue to participate to the full in the AWGs' work thus pooling the resources and intertwining them in the Agency's joint work. Furthermore, national experts (currently numbering 16 - see footnote 7 below - for periods between 1 and 3 years) have been seconded to Ljubljana to complement ACER's own staff. Moreover, the Board also notes that, in

² Regulation 1227/2011/EU on wholesale energy market integrity and transparency.

³ Regulation 347/2013/EU on Guidelines for trans-European energy infrastructure.

the 18 months before ACER's formal establishment, NRAs (acting in ERGEG⁴), undertook much preparatory work including on pilot Framework Guidelines, so that the Agency was well prepared to issue quickly its first Framework Guidelines⁵.

Significant additional support in kind (under article 13(8) of the Regulation⁶), authorised by the ACER Administrative Board and the EC itself, has been given by NRAs through CEER throughout the past 3 years. More specifically, this has taken the form of providing logistical and secretarial support of the AWGs; hosting of several BoR and AWG meetings during the year and arranging for ACER workshops to be held in Brussels. Perhaps, more significantly, this support has also taken the form of free accommodation (and services) to the Agency's Liaison Office in Brussels to which the BoR members, like the majority of stakeholders, attach particular importance.

The BoR notes the valuable contribution of individual NRAs during the period before the Agency's establishment as well as the subsequent early years of ACER's existence. However, whilst, the BoR underlines that, although this support from NRAs will continue - and possibly increase in the future - it must not distract attention from the imperative of establishing an appropriately resourced ACER to allow it to meet its legal obligations and political responsibilities. Indeed, whilst fully accepting the need for sacrifices in response to the current austerity we face – sacrifices that most NRAs are themselves painfully witnessing – the Board underscores the need to allocate resources commensurate with the responsibilities the Agency now has. Thus, whilst the members note the EC's encouragement to ACER "to plan its activities realistically against the background of available resources" and the EC's commitment "*within the context of the EU budget in general (that it will) ensure that ACER disposes of the necessary means to execute its tasks*", the BoR underlines that the additional responsibilities were originally given unconditionally to ACER under REMIT and the TEN-E Regulation.

⁴ An independent advisory group on electricity and gas, called the European Regulators Group for Electricity and Gas (ERGEG) was established by Commission Decision 2003/796/EC and was repealed after the initiation of the formal operation of the Agency.

⁵ This allowed, *inter alia*, drafts of first two Framework Guidelines to be issued for public consultation on the very day in which the Agency started its formal operation (3 March 2011).

⁶ REGULATION (EC) No 713/2009 of 13 July 2009, establishing an Agency for the Cooperation of Energy Regulators

The BoR welcomes that the Commission - like stakeholders - stressed the need for the independence of both the Agency (and the BoR members) and individual NRAs (at national level). Such independence is critical for the ongoing effectiveness of each NRA and the Agency itself. Indeed such independence is essential to retain the credibility of the Institutions. In parallel with this independence has also come a spirit of collaboration which has, in the BoR's view, intensified during ACER's early years and will, we believe, continue to do so. The practical arrangements now in place echo this collaboration: they include close relationships between individual NRA members in the meetings of the BoR itself; the frequent contacts of experts from many NRAs and those of the Agency's staff in the AWG meetings, the Regional Initiatives coordination Groups, and the REMIT platforms for cooperation.

A pan-EU perspective increasingly suffuses this work and these collaborative efforts. The practical arrangements developed by the Agency have undeniably stimulated collective and cooperative working with many beneficial effects. These include a wide dissemination of best regulatory practices amongst NRAs and a cross-fertilisation of information between them; the development and use of benchmarking; and a greater awareness of the benefits (and challenges) of the integration of the internal energy market. This is of particular importance in recognising the complexity of resolving, in any one Member State, potential cross-border issues where other Member States may be affected. In short, the BoR believes that in these different ways we are seeing the emergence of a broader cooperative European culture between NRAs themselves and within ACER in respect of many energy regulatory issues.

The Board notes that such cooperative working will be even more necessary in the future and should, in the BoR's view, be reflected in the future arrangements for regulatory cooperation. Not only does the Agency need to play its full role under the current legislative framework (as the Commission's evaluation suggests), but it should build on the current foundations of cooperation. The greater integration of the internal energy market and the need for consistency in implementation and enforcement of network codes will require continued complementary efforts by ACER and NRAs in order to ensure that regulatory action at both European and national levels delivers a well-functioning IEM to the ultimate benefit of all European citizens. Similarly, safeguarding market integrity and transparency (under REMIT) will need that same complementarity of supervisory action at national and European level, notably including cooperation within ACER.

The Board appreciates the positive comments from the EC with regard to its own plans to develop a more strategic assessment of the coming years in its initiative “Energy Regulation: Building a Bridge to 2025”. This will, following an extensive consultation of stakeholders (in the form of a Green Consultation Paper), result in recommendations with regard to our regulatory framework principally in order to promote and develop the internal energy market and meet the main challenges and changes it will face.

The BoR confirms that it will continue its collaboration with the EC in developing policy, in monitoring markets and in intensifying the cooperation between NRA members. This will ensure the continued cooperation at EU level within ACER and the collaboration in exercising the individual NRAs’ regulatory responsibilities at national level.

It would be wrong not to conclude with the Board’s high appreciation of the extremely hard work of ACER Director and his staff in the first years of the Agency’s operation. The results achieved in collaboration with NRAs, speak for themselves.

3 Recap of the Key conclusions and Recommendation of the EC in its evaluation report

Summary of the EC’s Recommendations

ACER Priorities and Activities

Since its establishment, ACER has become a credible and respected institution playing a prominent role in the EU regulatory arena. Overall, ACER has focused on the right priorities. Its annual work programmes and annual activity reports are useful tools to set priorities and report transparently on results achieved.

The Commission encourages ACER to plan its activities realistically against the background of available resources, to carry out a mid-term review where appropriate, to include key performance indicators in its Annual Activity Report and to establish a multi-annual programme.

Going forward, the Commission encourages ACER to strengthen further its regulatory control over the ENTSOs, including on the implementation of the network codes and Ten Years Network Development Plans. ACER should also play an active role as an arbiter when NRAs disagree or

adopt incompatible approaches on cross-border issues, which impede a smooth functioning of the internal energy market.

The Commission welcomes the Bridge to 2025 initiative and encourages ACER to provide input into energy related policy debates at EU and, where appropriate, national level.

Governance

The governance corresponds to the set up foreseen in the ACER Regulation. The Commission welcomes the positive contribution made by NRAs whilst encouraging some NRAs to take a more active role in the valuable work undertaken by the Agency' Working Groups. Also, as they gain experience, ACER's staff could play a more prominent role in the Working Groups, including by chairing the Groups, as well as in stakeholders' events.

Communication and transparency

As regards ACER's communication and transparency, the Commission notes in general positive results of the public consultations and important efforts successfully undertaken to improve these aspects. In terms of potential improvements, there is a consensus that ACER's website needs to become more informative and user-friendly.

The Commission notes that stakeholders have appreciated the efforts of the Board of Regulators to enhance transparency further through quarterly debriefing on ACER's activities.

The Commission will carry out a full evaluation of ACER under Article 16(3) of Regulation (EC) 713/2009 with the aim to publish recommendations early on in 2015 on ACER's duties and requirements in the following years. It will at that occasion evaluate whether any amendments to Regulation (EC) 713/2009 could be appropriate.

4 Principal Conclusions and recommendation of the Board of Regulators

ACER activities and areas of work The Board has considered carefully the EC's evaluation and has also reflected further on a number of other issues in the light of its own and stakeholders' comments. The BoR draws the following key conclusions and observations. (The Board's key observations are included in italics in the tables below). There is a more detailed assessment under section 5.

The Board agrees with the Commission's assessment that the Agency should "exhaust its full role" and make full use of its duties under the Third Package (and the subsequent legislation) in order to fully exercise scrutiny of the ENTSOs and to take a proactive approach vis-à-vis NRAs.

Any further legislative measures and ACER duties – which, as the EC indicates, will be considered in the forthcoming evaluation of the EC - should ensure that appropriate resources commensurate to fulfil its responsibilities are allocated by the Institutions. Adequate resources are also essential for ACER to continue to play its full role under the current framework

The Board also agrees with the EC's assessment on the broader role of ACER to provide input to energy-related policy debates at EU levels. The BoR welcomes the initial positive reaction of both Stakeholders and the EC to the "Bridge to 2025" initiative.

ACER has already announced its intention to assess whether and how the electricity and gas "target models" might need to be enhanced. The broader initiative "Energy Regulation: A Bridge to 2025" has also recently been launched to identify, in a more holistic way, the key challenges and regulatory responses required in the coming years. A Green paper will be published in spring 2014 for a formal public consultation of around 6 weeks.

Transparency Increasing transparency and cooperation with stakeholders are key elements of the Agency's success and an important reason for stakeholders' continued trust. Further actions have already been undertaken to improve transparency, including "citizens' summaries". Furthermore, ACER has produced high-quality reports monitoring the internal electricity and gas market and recording progress in the Regional Initiatives process which, in the Board's view, have increased transparency. Furthermore, ACER has regularly reported to the EP and to stakeholders, setting out progress on work, the key findings of the monitoring reports, and presenting its Work Programmes on which feedback from stakeholders has also been sought.

The BoR welcomes the Director's recognition that further improvements are needed (including enhancing the website). From the earliest days of the Agency's establishment, it has continuously developed, reviewed, and improved its working arrangements and has strengthened its consultation processes with all stakeholders. The Board also notes that the Director himself commissioned - some time ago - an assessment of stakeholders' perception of the Agency's performance. Following feedback from stakeholders, action has been taken in a number of areas to ensure its efficient operation, transparency and accountability. The BoR itself has introduced a "Roadmap" to monitor progress on a number of actions (including public debriefings and citizens' summaries) under three axes: (1) the role of NRAs in ACER; (2) relations with stakeholders and institutions; (3) strategic thinking.

Engaging all The BoR agrees with the EC's assessment that the success of the Agency's operation will depend heavily on its success in melding the expertise of the

ACER staff with the contributions and experience of NRAs. This cooperative environment at working level has reduced delays in the later decision making process and has facilitated consensual agreements which reflect an EU– driven approach complemented by bottom-up regulatory expertise.

The BoR recognises that not all NRAs are currently always involved in the AWGs (due to resource constraints) and also agrees with the EC that, where possible and appropriate, there should be greater involvement of ACER staff in the AWGs and in stakeholder events, as well as participation of all NRAs. This approach (of ACER staff and all NRA staff close involvement) is the basis for reflecting a European perspective. It will also be the basis for developing the ACER's 2015 Work Programme.

Independence In addition to the need for engaging all, the BoR also acknowledges the stakeholders' call for independence of NRAs. This is a key pillar for the future regulatory cooperation arrangements including within ACER and for building trust in a "European Agency". Thus the BoR places appropriate emphasis on the need for independence and sufficient resources of the Agency and NRAs. The BoR itself commits to seek to secure a greater active participation of NRAs experts in the AWGs in order to enrich ACER's work and to reflect a European perspective.

Future arrangements As part of the "Bridge to 2025" Green (consultation) paper, we shall also review in more detail how the overall institutional arrangements and governance are fit for purpose.

The BoR believes that the process of analysis and decision taking of ACER has steadily improved and that it is now well embedded and widely understood. The BoR believes that although there is scope for the processes to be improved, the overall situation of the (relatively recently established) Agency is well based. The BoR cautions against (legal) changes to its structure and governance given the risk of destabilising the progress made at a time when the challenges faced by ACER will be very great.

5 More detailed assessment by the Board of Regulators

Under the Regulation, the BoR is charged with providing a broad assessment of ACER based on various aspects that are relevant to ensure and improve the efficiency of its work. This requirement concerns not only an assessment of the way regulatory issues have been tackled, but certain additional administrative and organisational issues (including changes to the ACER Regulation, the Agency and its working methods). There follows an examination of the EC's comments on more specific areas.

The organisational structure and management of ACER is, in the BoR's view, well established. The Director has sought to attract and retain highly qualified staff⁷ to meet current challenges; its relatively flat organisation allows top management to maintain close contact with its staff and with other experts and stakeholders.

ACER has, however, been given additional responsibilities since its original establishment with the entry into force of REMIT and the Guidelines for Trans-European Energy Infrastructure. The BoR has repeatedly voiced its increasing concern that the inadequacy of the additional resources allocated to these tasks could result in potentially serious market instability, if ACER cannot fulfil its new legal responsibilities. There is also potential consequential damage to the reputation and standard of the Agency and indeed the whole regulatory community if such risks were to crystallise.

Cooperation between NRAs within ACER is, in the BoR's view, efficient, constructive and has generally worked well. There is a mutual responsibility and commitment between the NRAs and the Agency (to consult closely and to cooperate with each other, especially on cross-border issues) and, in addition, to promote a competitive, secure and environmentally sustainable internal market in electricity and gas within the EU. That broader, cross-border dimension is vital notably given the cross frontier impact national regulatory practices can have as well as their impact on the internal energy market. The BoR recalls that NRAs have had a history of mutual cooperation since 2000 (in CEER⁸ and ERGEG). This has been brought into the new structure for cooperation, embodied in ACER in a more effective way. Although, as the EC notes, the

⁷ In December 2013, the Agency comprises 49 Temporary Agents, 7 Contractual Agents and 16 Seconded National Experts.

⁸ Council of European Energy Regulators

procedure allowing ACER to review another NRA's decision has not so far been used, this can be principally explained, in the view of the Board, by the history of cooperation and by the fact that within the new structure provided by the Agency good relationships between NRAs have grown.

The Agency's staff and the NRAs experts have cooperated well, notably through the effective involvement of NRAs and ACER staff in AWGs (where most of the detailed preparation of the documents occurs) and in the BoR itself which comprise senior staff from NRAs, the EC, and the ACER Director. Although the major preparatory work is undertaken in the AWGs, it is the Director alone who holds the pen in preparing the proposal on which the BoR is required to reach its formal opinion or is consulted upon.

As mentioned earlier, the BoR acknowledges that some NRAs are less active than others. However, it notes that some NRAs have particularly acute resource constraints, whilst pointing out that the interest of each is subsequently safeguarded by the fact that in the BoR decision taking each NRA has one vote. Furthermore, additional platforms (including online tools) have been developed to keep all NRAs constantly in touch with the work. Such tools will be further developed and the Director has recently set up bilateral contacts with the less active NRAs to identify ways to encourage their greater participation. In addition the video-conferencing and web streaming facilities available for AWG meetings and events through the ACER premises in Ljubljana and recently through the new premises in Brussels will facilitate participation of more NRAs in such meetings. However, the BoR repeats its concern that a crucial precondition for ensuring trust in the Agency is the safeguarding of the independence of NRAs both as members of the BoR (which is reflected in the Regulation) and at national level. The BoR, therefore, agrees with the emphasis of stakeholders and the EC on this issue.

There should be complementarity of regulatory actions and the use of resources at EU and national level. Indeed, Recital 20 of the ACER Regulation notes that a significant amount of the resources pooled by the NRAs at European level should be made available to ACER. This was evident in ACER's first year given that the recruitment of dedicated ACER staff would take time and NRAs provided significant, technical and financial support that remains vital in ensuring the Agency's success. It is important that national and European interests are appropriately balanced to deliver a well-functioning IEM that benefits all European citizens and to achieve the complementarity of regulatory actions at national and EU level. Resources are, of course, scarce

everywhere and a close cooperation between NRAs and the Agency's staff allows synergies to be exploited.

Cooperation with the Agency Boards (the Administrative Board (AB) and the Board of Appeal, (BoA)) has worked well. The Board of Regulators – an innovative approach for agencies – comprises one member for each NRA and the Commission (without a vote). The BoR is called formally to consider many of the acts of the Agency, which can be adopted by the Director only subject to a favourable opinion of the BoR, with each decision adopted following a majority of 2/3 of the members present (or represented). The BoR Chair participates as an observer in the Administrative Board and reports on the BoR discussions and decisions.

The regulatory issues/procedures and relationship with stakeholders that have been undertaken by ACER have been mainly related to the Framework Guidelines and Network Codes. The Agency has met the ambitious 3-year-plan agreed between the EC, ACER and the ENTSOs. Major efforts have been made to deliver as precise and concrete Framework Guidelines as possible. The BoR agrees with the Commission's assessment that ACER "has gradually taken a more active role throughout the entire network code development process". The Board also agrees that the Agency should play its full role in delivering more prescriptive framework guidelines and focussed impact assessments. The BoR commits to taking an active role in this development.

The Agency has assured the involvement of stakeholders in its procedures notably by running public consultations and cooperating with ENTSOs and the EC during the process to develop the network codes (in particular its efforts to ensure that there is appropriate scrutiny and consistency between the codes). ACER also oversees the early implementation of the network codes through regional cooperation. The BoR also agrees with the EC that ACER has played an important role in the Regional Initiatives (particularly in the early implementation of codes through regional cooperation) through the cross regional roadmaps and the accompanying structure of the Regional Initiatives Coordination Groups and their Coordinators, something which has also been recognised by stakeholders. The go-live of the day-ahead market coupling in the North-West Europe region on 4 February is a successful example.

The BoR agrees with the EC that improvements can be made to ACER's monitoring reports for example regarding their scope which should be carefully explored.

The BoR supports the views of most that the use of stakeholders' groups is a valuable input to ACER's expertise, but notes that there should be a continuous assessment of these groups in order not to risk any compromise to its independence and also to secure continued efficiency and transparency, particularly with regard to those stakeholders who are not members of the groups.

An effective communication policy is the key to ensuring that ACER's activities and deliverables are understood and improvements are undertaken. The Board believes that communication with stakeholders can be further improved, notably by enhancements of its web site and more frequent web streaming of ACER events from both Ljubljana and Brussels. The ACER Liaison Office in Brussels has, in the Board's view, (and that of most stakeholders) also facilitated direct and frequent contacts with key stakeholders including the ENTSOs and the EU institutions (the EC, EP, Council).

Appendix 1 List of ACER Acts to date

ACER DECISIONS 2011

Number	Title	Date
01/2011	Framework Guidelines on Electricity Grid Connections	7/20/2011
02/2011	FRAMEWORK GUIDELINES ON CAPACITY ALLOCATION AND CONGESTION MANAGEMENT FOR ELECTRICITY	7/29/2011
03/2011	Framework Guidelines on Capacity Allocation Mechanisms for the European Gas Transmission Network	8/3/2011
04/2011	ACER opinion on the European Ten Year Network Development Plan 2011-2020 published by ENTSOG	9/16/2011
05/2011	Framework Guidelines on Gas Balancing in Transmission Systems	10/18/2011
06/2011	Framework Guidelines on Electricity System Operation	12/2/2011

ACER DECISIONS 2012

Number	Title	Date
01/2012	ACER Decision 01/2012 RELATING TO THE REGISTRATION FORMAT PURSUANT TO ARTICLE 9(3) OF REGULATION (EU) No 1227/2011	26/06/2012
02/2012	ACER DECISION 02/2012 ON FRAMEWORK GUIDELINES ON INTEROPERABILITY AND DATA EXCHANGE RULES FOR EUROPEAN GAS TRANSMISSION NETWORKS	26/7/2012
03/2012	ACER DECISION No. 03/2012 on FRAMEWORK GUIDELINES ON ELECTRICITY BALANCING	18/09/2012

ACER DECISIONS 2013

Number	Title	Date
01/2013	ACER Decision 01/2013 on Framework Guidelines on Gas Tariffs	29-Nov-13

ACER OPINIONS 2012

Number	Title	Date of adoption
1	ACER Opinion number 1 on ENTSOG Work programme for 2012	24/1/2012
2	ACER Opinion n° 02-2012 on ENTSOG's 2011-2012 Annual Winter Supply Outlook	4/6/2012
3	ACER Opinion n° 03-2012 on the ENTSO-E Annual Report 2011	4/6/2012

4	ACER Opinion n° 04-2012 REASONED OPINION ON THE NETWORK CODE ON CAPACITY ALLOCATION MECHANISMS FOR THE EUROPEAN GAS TRANSMISSION NETWORK	5/6/2012
5	OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No. 05/2012 ON ENTSOG'S 2012 ANNUAL SUMMER SUPPLY OUTLOOK	5/9/2012
6	OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No. 06/2012 ON THE ENTSO-E EUROPEAN TEN-YEAR NETWORK DEVELOPMENT PLAN 2012	5/9/2012
7	OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No. 07/2012 ON THE ENTSO-E SUMMER OUTLOOK REPORT 2012 AND WINTER REVIEW 2011/2012	8/10/2012
8	OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No. 08/2012 ON ENTSO-E'S NETWORK CODE FOR REQUIREMENTS FOR GRID CONNECTION APPLICABLE TO ALL GENERATORS	13/10/2012
9	OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No. 09/2012 ON ENTSOG's 2013 ANNUAL WORK PROGRAMME	12/12/2012
10	OPINION OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS No. 10/2012 ON ENTSO-E'S NETWORK CODE ON CAPACITY ALLOCATION AND CONGESTION MANAGEMENT	19/12/2012

ACER OPINIONS 2013

Number	Title	Date of adoption
1	ACER Opinion 01-2013 on the Network Code on Gas Balancing of Transmission Networks	25-Jan-2013
2	ACER Opinion 02-2013 on the ENTSO-E Draft Annual Work Programme 2012 through 2013	28-Jan-2013
3	ACER Opinion 03-2013 ON ENTSOG'S ANNUAL WINTER SUPPLY OUTLOOK 2012/13	12-Feb-2013
4	ACER Opinion 04-2013 ON ENTSOG's 2011 ANNUAL REPORT	12-Feb-2013
5	ACER Opinion 05-2013 ON CAPACITY MARKETS (ITRE Opinion)	15-Feb-2013
6	ACER Opinion 06-2013 ON THE NETWORK CODE ON DEMAND CONNECTION	25-Mar-2013
7	ACER Opinion 07-2013 ON THE SUITABILITY OF LONG RUN AVERAGE INCREMENTAL COSTS FOR THE ASSESSMENT OF INTER-TRANSMISSION SYSTEM OPERATOR COMPENSATION FOR INFRASTRUCTURE (LRAIC)	25-Mar-2013

8	ACER Opinion 08-2013 ON THE ENTSO-E WINTER OUTLOOK REPORT 2012/2013 AND SUMMER REVIEW 2012	25-Mar-2013
9	ACER Opinion 09-2013 ON GAS REGIONAL INVESTMENT PLANS 2011(12)-2020(21) (GRIPS)	25-Mar-2013
10	ACER Opinion 10-2013 ON THE NETWORK CODE ON OPERATIONAL SECURITY	28-May-2013
11	ACER Opinion 11-2013 ON THE ENTSO-E RESEARCH AND DEVELOPMENT ROADMAP 2013-2022 AND THE IMPLEMENTATION PLAN 2014-2016 OF THE RESEARCH AND DEVELOPMENT ROADMAP 2013-2022	28-May-2013
12	ACER Opinion 12-2013 ON THE NETWORK CODE ON OPERATIONAL PLANNING AND SCHEDULING	19-Jun-2013
13	ACER Opinion 13-2013 ON ENTSOG'S ANNUAL SUMMER SUPPLY OUTLOOK 2013	27-Jun-2013
14	ACER Opinion 14-2013 ON ENTSOG's 2012 ANNUAL REPORT	27-Jun-2013
15	ACER Opinion 15-2013 ON THE DRAFT REGIONAL LISTS OF PROPOSED GAS PROJECTS OF COMMON INTEREST 2013	18-Jul-2013
16	ACER Opinion 16-2013 ON THE DRAFT REGIONAL LISTS OF PROPOSED ELECTRICITY PROJECTS OF COMMON INTEREST 2013	18-Jul-2013
17	ACER Opinion 17-2013 ON THE ENTSO-E ANNUAL REPORT 2012	1-Aug-2013
18	ACER Opinion 18-2013 ON ENTSOG's DRAFT COMMUNITY-WIDE TYNDP 2013-2022	10-Sep-2013
19	ACER Opinion 19-2013 ON THE NETWORK CODE ON LFCR	26-Sep-2013
20	ACER Opinion 20-2013 ON A HARMONISED FORMAT FOR DATA PUBLICATION BY ENTSOG AND TSO'S	9-Oct-2013
21	ACER Opinion 21-2013 on the NC on Interoperability and Data Exchange Rules	21-Nov-13
22	ACER Opinion 22-2013 on the ENTSO-E Summer Outlook Report 2013 and Winter Review 2012/2013	29-Nov-13
23	ACER Opinion 23-2013 on ENTSOG's 2014 Annual Work Programme	29-Nov-13
24	ACER Opinion 24-2013 on ENTSO-E's NC on Forward Capacity Allocation	18-Dec-13
25	ACER Opinion 25-2013 on the Draft ENTSO-E Work Programme Autumn 2013 through December 2014	18-Dec-13
26	ACER Opinion 26-2013 on the Manual of Procedures for the ENTSO-E Central Information Transparency Platform	19-Dec-13

ACER OPINIONS 2014

Number	Title	Date of adoption
1	ACER Opinion 01-2014 on the ENTSO-E Guideline for Cost Benefit Analysis of Grid Development Projects (CBA)	30-Jan-2014
2	ACER Opinion 02-2014 on ENTSOG's Winter Supply Outlook 2013/14	30-Jan-2014

ACER RECOMMENDATIONS 2012

Number	Date signed	Name of the Recommendation
1	22/2/2012	ACER RECOMMENDATION n° 01/2012 - on Article 2(1)(n) of the Commission proposal for a Directive of the European Parliament and of the Council on markets in financial instruments repealing Directive 2004/39/EC of the European Parliament and of the Council (COM(2011) 656 final)
2	4/10/2012	ACER RECOMMENDATION No 02/2012 - ON THE NETWORK CODE ON CAPACITY ALLOCATION MECHANISMS FOR THE EUROPEAN GAS TRANSMISSION NETWORK
3	23/10/2012	ACER Recommendation no. 03/2012 - on the Records of Transactions of Regulation (EU) no 1227/2011 (REMIT)
4	9/11/2012	ACER RECOMMENDATION No. 04/2012 - ON THE NETWORK CODE ON CAPACITY ALLOCATION MECHANISMS FOR THE EUROPEAN GAS TRANSMISSION NETWORK

ACER RECOMMENDATIONS 2013

Number	Date signed	Name of the Recommendation
1	14-Mar-2013	ACER Recommendation 01-2013 on the Network Code on Capacity Allocation and Congestion Management (CACM)
2	25-Mar-2013	ACER Recommendation 02-2013 on THE NETWORK CODE ON DEMAND CONNECTION
3	25-Mar-2013	ACER Recommendation 03-2013 ON THE NETWORK CODE ON GAS BALANCING OF TRANSMISSION NETWORKS
4	25-Mar-2013	ACER Recommendation 04-2013 ON THE NETWORK CODE FOR REQUIREMENTS FOR GRID CONNECTION APPLICABLE TO ALL GENERATORS
5	25-Mar-2013	ACER Recommendation 05-2013 ON A NEW REGULATORY FRAMEWORK FOR THE INTER-TRANSMISSION SYSTEM OPERATOR COMPENSATION (ITC)
6	26-Mar-2013	ACER Recommendation 06-2013 ON THE RECORDS OF TRANSACTIONS, INCLUDING ORDERS TO TRADE, ACCORDING TO ARTICLE 8 OF REGULATION (EU) NO 1227/2011 CONCERNING BALANCING AND TRANSPORTATION CONTRACTS (REMIT)
7	25-Sep-2013	ACER Recommendation 07-2013 REGARDING CBCA
8	26-Sep-2013	ACER Recommendation 08-2013 ON THE NETWORK CODE ON

LFCR

9	11-Nov-2013	ACER Recommendation 09-2013 ON THE NETWORK CODE ON OPERATIONAL SECURITY
10	11-Nov-2013	ACER Recommendation 10-2013 ON THE NETWORK CODE ON OPERATIONAL PLANNING AND SCHEDULING

ACER RECOMMENDATIONS 2014

Number	Date signed	Name of the Recommendation
1	15-Jan-2014	ACER Recommendation 01-2014 on the Network Code on Interoperability and Data Exchange Rules

Appendix 2

Background information on the Board of Regulators

The ACER Board of Regulators (BoR) consists of senior representatives of the 28 NRAs, one for each Member State (and one alternate appointed by each national regulatory authority), and one non-voting representative of the European Commission. The Director also participates at the BoR meetings. The duties of the BoR as set out in the Third package are essentially to provide its consent on reasoned opinions and recommendations presented to it by the Director on issues that relate to the regulatory functions of the Agency. Therefore, it has an important role in relation to regulatory policy, not only because, without its consent the relevant acts (opinions, recommendations and decisions - FG, opinions on network codes, TYNDP, individual decisions) cannot be adopted, but also because of its role to approve the Work Programme of the Agency, to adopt the regulatory activities section of the Agency's annual report, to be consulted on the Agency's budget, and to provide guidance to the Director within its ambit of competences.

Other duties of the BoR include its formal opinion to the Administrative Board on the candidate to be appointed as Director, and its consultation by the European Commission on the proposal of the members of the Board of Appeal.

In accordance with REMIT, the BoR needs to be consulted by the Director on all aspects of its implementation.

Finally under the TEN-E Regulation, the BoR must to provide its opinion on the Agency Director's opinion in respect of the draft regional lists of Projects of Common Interest, in particular in relation to the consistent application of the criteria and the CBA across regions.

The BoR usually meets on a monthly basis. All its agendas, minutes of the meetings and background documents (following their approval) are made public and available at the following link:

http://acernet.acer.europa.eu/portal/page/portal/ACER_HOME/Public_Docs/Board_of_Regulators/2012%20Meetings/23rd%20BoR

A record of the 2011, 2012 and 2013 BoR Decisions and Opinions can be found at the following link:

http://acernet.acer.europa.eu/portal/page/portal/ACER_HOME/Public_Docs/Board_of_Regulators/Decisions_BoR/BoR%20Decisions_Opinions%202012.pdf