

128th ACER Board of Regulators Meeting

18 December 2024 | 08:30 - 13:00

ACER premises, hybrid meeting

MINUTES

Represented institutions	Names ¹
E-CONTROL (Austria)	M: Wolfgang Urbantschitsch; A: Dietmar Preinstorfer; O: Christine Materazzi-Wagner; O: Katharina Ledermann-Tappeiner
CREG (Belgium)	M: Koen Locquet; A: Geert Van Hauwermeiren; O: Bart De Waele
EWRC (Bulgaria)	A: Blagoy Golubarev
HERA (Croatia)	M: Željko Vrban
CERA (Cyprus)	A: Alkis Philippou
ERU (Czech Republic)	O: Martin Sik
DUR (Denmark)	M: Carsten Smidt
ECA (Estonia)	A: Marilyn Tilkson
EV (Finland)	M: Simo Nurmi; O: Veli-Pekka Saajo
CRE (France)	O: Claire Hellich-Praquin; O: Natalia Baudry; O: Anne-Lise Teani
BNetzA (Germany)	M: Annegret Groebel; O: Alexander Linov O: Nadia Horstmann; O: Vera Fuhs
RAAEY (Greece)	M: Athanasios Dagoumas; O: Yuriy Bilen
MEKH (Hungary)	A: Gergely Szabó; O: Tamás Gyarmati; O: Réka Kerékgyártó
CRU (Ireland)	M: Jim Gannon; O: Clodagh Hunt-Sheridan; O: Karen Trant; O: Eilis McDonnell
ARERA (Italy)	M: Clara Poletti; A: Francesco Cariello; O: Ilaria Galimberti
PUC (Latvia)	M: Rota Sņuka; O: Alda Ozola; O: Lija Makare

¹ M: Member; A: Alternate; O: Observer.

NERC (Lithuania)	M: Renatas Pocius; A: Irma Zdanienė; O: Jelena Diliene; O: Elžbieta Kriaučiūnaitė; O: Benas Skublickas
ILR (Luxembourg)	M: Claude Rischette
REWS (Malta)	O: Manuel Manuzzi
ACM (Netherlands)	O: Nora Meray
URE (Poland)	M: Rafał Gawin; A: Małgorzata Kozak
ERSE (Portugal)	M: Pedro Verdelho; A: Natalie McCoy; O: Joao Diogo; O: Rita Laranjeira; O: Elvira Grilo
ANRE (Romania)	A: Tatiana Iosiper
URSO (Slovakia)	A: Mária Bronišová
AGEN-RS (Slovenia)	M: Duška Godina; A: Bojan Kuzmic
CNMC (Spain)	M: Josep Maria Salas; A: Esther Espeja; O: Gema Rico
EI (Sweden)	A: Caroline Tornqvist; O: Johan Roupe
NVE-RME (Norway)	A: Anne Dønnem
EEA-EFTA State - Iceland Iceland	A: Ninna Ýr Sigurðardóttir
EFTA Surveillance Authority	O: Anne De Geeter
ACER	Christian Zinglensen, Christophe Gence- Creux, Thomas Querrioux, Rafael Muruais Garcia, Martin Godfried, Volker Zuleger, Csilla Bartok, Bart Vereecke, Antonio Santos, Tina Voncina, Fay Geitona, Mitsuko Akiyama, Argyro Lykaki, Nico Keyaerts, Mitja Maletin, Martin Viehhauser
European Commission	Christof Lessenich, Annamaria Marchi, Michael Schuetz, Zsuzsanna Szeles

1. OPENING

1.1. Approval of the agenda & declaration of conflicts of interest

The agenda of the 128th 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.

The BoR Chair invited Mr Godfried, Head of the Investigations Department, to make a brief announcement with respect to agenda item 6.6. Mr Godfried invited the 13 NRAs that are yet to sign the consolidated REMIT Multilateral Memorandum of Understanding to do so during the BoR meeting or at their earliest convenience.

1.2. Minutes of the 127th BoR meeting

The minutes of the 127th BoR meeting were approved and sent to the European Parliament on 6 November 2024.

Decisions/Conclusions

1.1	The BoR approved the agenda.
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2. UPDATES FROM THE ACER DIRECTOR AND THE BOR CHAIR

2.1 Joint update from ACER and the BoR Chair including follow-up from initial discussions at the previous BoR

The ACER Director and the BoR Chair reported back on the smaller-format meeting with the European Commission to discuss the framework for cooperation as clarified in the guidance issued by the EU-UK Specialised Committee on Energy dated 5 April 2024.

The ACER Director reported back on ACER's annual appearance before the European Parliament ITRE Committee where he presented the 2024 Market Monitoring Reports and delivered a statement linked with the extension of his mandate for a further 5 years.

Members also took note of the outcomes of two electronic procedures. The BoR electronic procedure for the approval of the revised 2025 Work Programme was conducted in two rounds ending 26 November 2024. No comment was received in the first round. In the second round, 17 members participated and unanimously approved the revised 2025 Work Programme. The BoR electronic procedure for the BoR feedback to the Commission Decision on REMIT fees was conducted in two shortened rounds ending 27 November 2024. No comment was received in the first round and 20 members participated in the second round and the proposed feedback was approved by the requisite majority.

2.2 Update from the BoR Chair

The BoR Chair recalled the obligation for Board members and alternates to submit by 31 January 2025 their duly signed annual Declarations of Interests (Dols) and CVs via the Eplatform, for review by the Review Panel and publication on the ACER website. AWG Chairs and Vice-Chairs and TF Convenors must also submit their Dols and CVs. Members were asked for their agreement on the reappointment of the Review Panel (the BoR Chair and Vice-Chair, Mr Urbantschitsch and Ms Espeja as alternate member of the Review Panel). The BoR Chair then informed members of the process established by the ACER Conflict of Interest policy and agreed by the Review Panel in case of delayed submissions.

The BoR Chair also gave an update on recent ERF (Energy Regulators' Forum) activities including the adoption of Coordination Papers relating to enforcement matters.

Decisions/Conclusions

2.2

The BoR reappointed the 2025 conflict of interest Review Panel by consensus of the members present and represented.

3. WIDER ENERGY UNION

3.1. Updates from the European Commission

Mr Lessenich reported that the new European Commission, which began its duties on 1 December 2024, has already been advancing its priorities. The first deliverable in the energy field would be the action plan for affordable energy, expected in early 2025, together with the Clean Industrial Deal. The action plan will outline actions at both national and EU levels, focusing on preserving competitiveness and affordability in the short term, with more structural measures for the long-term. Mr Lessenich reported that the revision of the Capacity Allocation and Congestion Management (CACMA) Regulation is progressing well and is expected to reach the NRA community soon.

Regarding the ongoing discussions on EU competitiveness, the ACER Director complemented with a report on discussions held with energy ministers, having been invited by the Hungarian Presidency to give a presentation on "EU energy infrastructure and security of supply: Outlook ahead, future cost drivers & possible implication." The Director emphasised the need for close monitoring of energy system costs and more coordinated infrastructure planning across the EU.

The BoR Chair inquired about the state of play of the German gas storage neutrality charge. Mr Lessenich confirmed that the European Commission's transition had not altered its stance on the matter, maintaining the requirement for its abolition, as reaffirmed also by the German government at the last TTE Council. BNetzA informed members that the amendment of the Energy Act abolishing the gas neutrality charge at Interconnection Points is to be tabled for 2nd/3rd reading in the lower chamber on 19th December to go for final reading in the upper chamber of Parliament on 20 December 2024.

3.2 Reform of network charging in Slovenia

The Director of the Slovenian NRA (AGEN-RS), Ms Godina, presented the recent reform of the network charging methodology in Slovenia - the first in 25 years - aimed at aligning the system with the Clean Energy Package requirements and ACER recommendations. Ms Godina outlined the key changes introduced and the measures taken to ensure the dissemination of accurate information to achieve social acceptance. However, within a month of its implementation, the national regulator started to face strong political pressure from the government and parliament. In response to these developments, the Slovenian regulator urged the European Commission to take timely and decisive action to protect the independence of the NRA as mandated by Directive (EU) 944/2019 and upheld by the Court of Justice of the European Union (Case C-718/18 European Commission v Federal Republic of Germany), to prevent violations of EU law. The Commission stated in response that Case C-718/18 had unequivocally reaffirmed the principle of NRA independence in tariff setting.

Several NRA representatives also intervened to express their appreciation for highlighting the growing pressures and interference affecting NRAs, and shared their experiences of implementing network charging reform and managing the transition.

3.3 Report on the disruption of gas supply following the arbitration award to OMV

Mr Urbantschitsch outlined the situation following Gazprom's short notice suspension of gas supplies to Austria on 16 November, ending a supply relationship that began in 1968 and had been contracted until 2040. Despite these developments, Austria's current security of supply is not expected to be compromised, thanks to adequate gas storage levels and the substitution of Russian gas with imports from Germany, Italy, and Slovakia. In this context, the upcoming abolition of the German gas storage neutrality charge was positively received.

ACER complemented the presentation with an analysis of European gas wholesale markets indicating no security of supply threats comparable to those in 2022. However, some caution is warranted as late 2024 has seen increased pressures on prices. Mr. Sik also drew attention to the rapid decrease of storage levels in some Member States and cautioned against uncoordinated measures to meet the filling targets which may lead to price hikes.

4. ITEMS FOR BOR OPINION/APPROVAL/AGREEMENT

4.1 ACER Recommendation on the amendment of the Network Code on requirements for grid connection of high voltage direct current systems

The Commission requested that ACER prepare reasoned proposals for amendments to the grid connection network codes. On 19 December 2023, ACER issued Recommendation No 3/2023 for amending the network code on requirements for grid connection of generators and on Demand Connection. This recommendation aligned the network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules (HVDC Regulation) with those changes.

Following consultation, ACER recommendation proposed changes to areas such as: general provisions (amendments to definitions, the inclusion of new definitions); the general requirements for HVDC connections; the expansion of scope of application to asynchronously

connected demand facilities; asynchronously connected power-to-gas demand units and asynchronously connected electricity storage modules; the frequency stability requirements; reactive power and voltage requirements etc.

By the deadline of 11 December, there was no BoR proposal for comment/amendment. The BoR unanimously voted in favour of granting its favourable opinion.

4.2 ACER Recommendation on the amendment of the Network Code on Capacity Allocation Mechanisms

In April 2024, the European Commission invited ACER to submit to the Commission by December 2024 reasoned proposals for amendments to Commission Regulation (EU) 2017/459 establishing a network code on Capacity Allocation Mechanisms in gas transmission system (CAM NC) pursuant to Article 73(3) of Regulation (EU) 2024/1789 and Article 14 of Regulation (EU) 2019/942.

The proposed amendments, on which ACER consulted extensively, will bring the CAM NC in line with the provisions of the EU Hydrogen and Gas Decarbonisation package seeking to advance decarbonisation, enhance security of supply, and facilitate regional cooperation. The 3 key recommended changes build on the lessons from the gas market crisis of 2022 and propose: a focus on the efficient use of the gas system and a better monitoring of it; more dynamic rules that enable capacity trading (auctions) to come closer to commodity trading (continuous); and more flexibility to modify non-essential technical rules so as to align them with evolving market conditions.

By the deadline of 11 December, there was no BoR proposal for comment/amendment. The BoR unanimously voted in favour of granting its favourable opinion.

4.3 ACER Opinion on the statutory documents of the European Network of Network Operators for Hydrogen

Article 57(1) of Regulation (EU) 2024/1789 requires that (future) hydrogen transmission network operators (HTNOs) cooperate at Union level through the European Network of Network Operators for Hydrogen (ENNOH) to promote the development and proper functioning of the internal market for hydrogen and cross-border trade, and to ensure the optimal management, coordinated operation and sound technical evolution of the European hydrogen transmission network. Article 57 of Regulation (EU) 2024/1789 requires that by 1 September 2024, HTNOs submit to the Commission and to ACER the draft statutes, a list of members and draft rules of procedure, including the rules of procedure on the consultation of stakeholders. Following their submission on 30 August 2024, ACER has 4 months to issue an opinion on these statutory documents after consulting all stakeholders, particularly the hydrogen system users. The Commission will in turn have 3 months to issue its own opinion on the ENNOH statutory documents which adoption is subject to the EC favourable opinion.

ACER considers the draft statutory documents of the ENNOH to be broadly in line with the requirements of Regulation (EU) 2024/1789 and Directive (EU) 2024/1788, except as noted in the Opinion. The BoR unanimously voted in favour of granting its favourable opinion.

4.4. ACER Opinion on ENTSOG Winter Supply Outlook 2024/25

On 16 October 2024, ENTSOG published its Winter Supply Outlook 2024/25, including a Summer 2025 Overview, pursuant to Article 26(3)(g) of Regulation (EU) 2024/1789. The former conveys an improved outlook as compared with the previous one. ACER is issuing an opinion thereon under Article 4(3)(b) of Regulation (EU) 2019/942.

The ACER Opinion welcomes ENTSOG's continuous effort to deliver the Outlook on time, assessing the main risks for gas supply, the recommendations to mitigate associated risks and the implementation of some methodological advancements. Nevertheless, the Opinion contains recommendations to continue improving and elaborating on the underlying assumptions and notes the importance of interlinkages between the electricity and gas Outlooks.

By the deadline of 11 December, there was no BoR proposal for comment/amendment. The BoR unanimously voted in favour of granting its favourable opinion.

4.5. Joint Decision of the Director and the BoR on the appointment of the Chairperson of the Retail Working Group

As per the Decision of 7 February 2023 on the appointment of the Chairpersons of the Retail Market Working Group, the term of the current Chair will end on 28 January 2025. According to Article 2.2 of the AWG Rules of Procedure, the Director and the BoR jointly appoint one or more Chairpersons for each Working Group. The appointment is typically for a period of two years but may be extended if the Director and the BoR consider this to be in the best interest of the Agency.

On behalf of the Director and the BoR Chair, the BoR Secretariat opened the call for nominations for the position of Chair (or Co-Chairs) and by the deadline of 3 December, the current Chair, Ms Natalie McCoy, Director of International Affairs at ERSE, and Ms Karen Trant, Director of Consumer Policy and Protection at CRU, expressed their interest in standing for the chairmanship of the Retail Market Working Group.

The BoR was asked to vote on the proposal to appoint Ms McCoy and Ms Trant as Chairpersons of the Retail Market Working Group, and the BoR unanimously decided in favour.

Decisions/Conclusions

4.1	The BoR issued its favourable opinion on the ACER Recommendation on the amendment of the Network Code on requirements for grid connection of high voltage direct current systems by consensus of the members present and represented.
4.2	The BoR issued its favourable opinion on the ACER Recommendation on the amendment of the Network Code on Capacity Allocation Mechanisms by consensus of the members present and represented.
4.3	The BoR issued its favourable opinion on the ACER Opinion on the statutory documents of the European Network of Network Operators for Hydrogen by consensus of the members present and represented.
4.4	The BoR issued its favourable opinion on the ACER Opinion on the ENTSOG Winter Supply Outlook 2024/25 by consensus of the members present and represented.

4.5

The BoR unanimously agreed to appoint Ms McCoy and Ms Trant as Chairpersons of the Retail Market Working Group.

5. AWG KEY ISSUES

5.1. AWG/ARC key updates

- ARC update including the revision of the ACER Guidance on REMIT

Mr Vereecke, ARC co-chair, reported on the outcomes of the ACER REMIT Committee meeting of 20 November, including the endorsement of the feedback on the upcoming Commission Decision on REMIT fees (subsequently approved through BoR electronic procedure) and of the revised ACER Guidance on REMIT. The light-touch revision of the Guidance on REMIT sought to reflect the revised REMIT framework and its publication is foreseen for 20 December. Mr Leo Lehr from E-Control will co-chair the REMIT Policy Task Force from 1 January 2025.

- Market Surveillance and Conduct State of play & 2025 outlook

Mr Santos, Acting Head of MSC, presented the highlights of market surveillance activities in 2024. In terms of REMIT case coordination, 2024 saw a ramp-up of NRA activities. Mr Santos also presented the 2025 outlook and highlighted some of the impacts on ACER's regulatory mandate.

- AEWG update including the status update on long-term flow-based implementation (LTFB) and on the planning for the commitments in the strategic paper on 2030+ challenges

The AEWG Chair updated members on the Bidding Zone Review; the EC evaluation report for the revision of the Guideline on Forward Capacity Allocation (FCA), on which NRAs were invited to provide feedback; the Flexibility Modelling Tool; the newly introduced rotational scheme for CACM/FCA TF convenorship and the renaming of the Adequacy & CRM TF to Security of Supply TF to reflect the broader scope; delays to the Ten-Year Network Development Plan process; and updates on the tasks to be carried out by NRAs in the area of cybersecurity and on the status of coordination papers endorsed by the ERF and by AEWG electronic procedure and preparations for the next ERF meeting planned in January.

On LTFB, the AEWG Chair referred back to the letter sent by ACER to all TSOs on 25 October as well as the follow-up questions sent to TSOs/the Joint Allocation Office on the same date regarding the reasons for non-readiness for implementation by the November 2024 deadline. The all TSO reply to ACER dated 2 December confirmed their commitment to implementation.

The AEWG Chair also updated members on actions foreseen to fulfil the commitments set out in the ACER-CEER paper on the challenges of the future electricity system.

- Status update on the European Resource Adequacy Assessment (ERAA 2024)

ACER formally requested a rerun of the ERAA 2024 by letter dated 17 December to bring the assessment into line with the ERAA methodology and to better reflect national specificities outlined in the studies conducted by the relevant authorities.

- Update on the opinions on the national resource adequacy assessments (NRAAs)

Polish authorities submitted their NRAA on 3 December. As the NRAA results diverge from the ERAA 2023, ACER will issue an opinion within 2 months, keeping relevant actors informed as per the process agreed with the BoR.

- AGWG update

Mr Verdelho informed members of possible stepwise changes to ACER working structures in pursuance of a multi-sectoral approach to planning, including more joint infrastructure TF meetings to promote cross-sectoral discussions. It was also agreed that the deadline for submitting expressions of interest for the position of Co-Convenor of the Gas Interoperability TF would be extended (until 8 January 2025).

5.2 Update on concrete proposals to further ACER-NRA collaboration: streamlining data collection & country desk officers

Referring back to the proposals endorsed by the BoR in July to facilitate data collection for market monitoring purposes, Mr Querrioux presented ongoing efforts to decrease data collection and use existing data to its full potential. Mr Querrioux also provided an overview of topics to be monitored in 2025 and corresponding data needs.

Ms Akiyama also updated members on another proposal for furthering ACER-NRA collaboration: in response to the request to have Country Desks to facilitate bilateral/informal contact, ACER shared the list of Country Desk Officers to act as main contact points in 2025 and to help ACER better understand the national markets, challenges and priorities. The Country Desk Officers will reach out to their NRA contacts at the start of 2025.

5.3. ACER Decision on the TSOs' proposal for the amendment of the Harmonised Cross-Zonal Capacity Allocation Methodology

Mr Viehhauser explained the background to the ACER Decision on TSOs' proposal for amending the Harmonised Cross-Zonal Capacity Allocation Methodology received on 31 July 2024. This methodology provides a harmonised approach for effective allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves. The draft Decision will be submitted to the AEWG for advice to be issued by 13 January so that it can subsequently be submitted to the January BoR for opinion.

Currently, balancing capacity is mostly procured nationally, and its procurement takes place in an auction run in day-ahead, before the clearing of the day-ahead energy market and independently of it. The current status thus involves uncoordinated clearing between day-ahead and balancing capacity markets, which results in an inefficient allocation of cross-zonal capacity across the two markets. An alternative would be the co-optimised procurement of energy and balancing capacity in the same auction, maximising the value of cross-zonal capacity.

Market-based allocation is the solution in the middle and the Balancing Regulation allows TSOs, on a voluntary basis, to implement and apply the market-based allocation process for the exchange of balancing capacity or sharing of balancing reserves. This solution is currently applied at regional level: Nordic TSOs have this process in place since December 2022 and the Baltic TSOs are expected to go-live in February 2025. In continental Europe, there are some TSOs (e.g. in Germany, Czechia, Austria and the Netherlands) that have taken steps

towards implementing and applying such a process, however they are not under any obligation to commit to implementing a market-based algorithm.

Members discussed the importance of the methodology in improving the functioning of the market.