

**123<sup>rd</sup> ACER Board of Regulators Meeting**

**24 April 2024 | 09:00 - 12:00**

Online

**MINUTES**

Represented institutions	Names <sup>1</sup>
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
EWRC (Bulgaria)	-
HERA (Croatia)	-
CERA (Cyprus)	O: Christina Zouvani
ERU (Czech Republic)	A: Jana Haasová; O: Tomáš Kupčiha
DUR (Denmark)	-
ECA (Estonia)	A: Marilyn Tilkson
EV (Finland)	A: Antti Paananen
CRE (France)	A: Ivan Faucheux O: Claire Hellich-Praquin; O: Amélie Redortier
BNetzA (Germany)	M: Annegret Groebel; O: Alexander Linov
RAEWW (Greece)	O: Yuriy Bilen
MEKH (Hungary)	A: Gergely Szabó; O: Szabolcs Koppányi; O: Tamás Gyarmati
CRU (Ireland)	M: Jim Gannon; O: Barry Hussey; O: Clodagh Hunt-Sheridan
ARERA (Italy)	M: Clara Poletti; A: Francesco Cariello; O: Ilaria Galimberti
PUC (Latvia)	M: Rota Šņuka; A: Dace Bite; O: Lija Makare

<sup>1</sup> M: Member; A: Alternate; O: Observer.

NERC (Lithuania)	O: Benas Skublickas
ILR (Luxembourg)	A: Claude Rischette
REWS (Malta)	A: Phyllis Micallef; O: Manuel Manuzzi
ACM (Netherlands)	O: Nora Meray
URE (Poland)	M: Rafal Gawin; A: Malgorzata Kozak
ERSE (Portugal)	M: Pedro Verdelho; A: Natalie McCoy; O: João Diogo
ANRE (Romania)	A: Tatiana Iosiper
URSO (Slovakia)	A: Maria Bronisova
AGEN-RS (Slovenia)	-
CNMC (Spain)	M: Josep María Salas; O: Gema Rico
EI (Sweden)	M: Ulrika Hesslow; A: Caroline Tornqvist; O: Johan Roupe
NVE-RME (Norway)	A: Anne Dønnem
EEA-EFTA State - Iceland	-
EFTA Surveillance Authority	O: Ada Gimnes Jarøy
ACER	Christian Zinglensen, Christophe Gence-Creux, Rafael Muruais Garcia, Csilla Bartok, Athina Tellidou, Tina Voncina, Fay Geitona, Mitsuko Akiyama
European Commission	Catharina Sikow-Magny, Michael Schuetz, Ewa Lijewska

## 1. OPENING

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

The agenda of the 123<sup>rd</sup> 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 122<sup>nd</sup> BoR meeting

The minutes of the 122<sup>nd</sup> BoR meeting were approved and sent to the European Parliament on 19 March 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. Update from ACER

The Director updated members on near-term actions ACER is taking in readiness for the newly mandated work per the three legislative outcomes decided at the end of 2023, and ongoing efforts to further ACER-NRA collaboration, including an initial assessment of the 2023 NRA survey results and the collection of broader feedback on ACER-NRA collaboration. ACER intends to present its considerations on longer-term collaboration at the forthcoming meetings.

Members were informed of the outcome of the shortened BoR electronic procedure for the endorsement of the ACER opinion on the necessary developments for the fulfilment of the minimum cross-zonal capacity requirements that ended on 11 March 2024. 22 members participated and the opinion was endorsed by the requisite majority of members participating in the electronic procedure, with 4 abstentions.

The shortened BoR electronic procedure for the endorsement of the ACER-CEER paper on anticipatory investments was conducted in two rounds ending 15 March 2024. In the first round, 6 members submitted comments, and in the final round for endorsement, 26 members participated and the paper was endorsed by consensus of those participating in the electronic procedure.

## 2.2. Update from the BoR Chair

The BoR Chair announced the outcome of the Review Panel meeting of 12 April and in respect of the pending declarations of interest (DoI), recalled the obligation of BoR members and alternates, the Working Group (WG) Chairs and Vice-Chairs and Task Force (TF) Convenors to submit in due time their annual DoIs and CVs for review by the Review Panel and publication on the ACER website.

The BoR Chair also reminded members that the next meeting is scheduled for 5 June in Berlin, and asked the BoR to agree to move the December meeting date to the 18th. Members unanimously agreed.

### Decisions/Conclusions

2.2	The BoR agreed to change the December BoR meeting date to 18 December 2024.
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## 3. WIDER ENERGY UNION

### 3.1. Updates from the European Commission

- Key outcomes of the informal meeting of energy ministers of 15-16 April

Ms Sikow-Magny informed the BoR of the outcomes of the above event, during which ministers discussed one of the priorities of the Belgian Presidency: advancing sustainable energy infrastructure. The informal meeting included three plenary sessions, with a central focus on coordinated (and regional) grid planning, and financing and de-risking infrastructure investments for the scale-up and speed-up of energy infrastructure, reiterating the need for significant investments. Standardisation and permitting were also discussed: while the latter had for some time been perceived as the key factor delaying infrastructure rollout, interventions suggested that supply chain challenges and regulation (procurement rules) have now become the key obstacles. Ministers expressed broad support for standardisation and underlined its benefits for increasing competitiveness, strengthening supply chains and improving security of supply.

- Conclusions of the High-Level Roundtable on EU Grids held on 25 March

Ms Sikow-Magny also presented the conclusions of the High-Level Roundtable hosted by ENTSO-E (joined notably by Belgian Presidency - minister Van der Straeten, Commissioner Simson and stakeholders) to take stock of progress made since the launch of the EU Grid Action Plan. The discussion focused on three areas where additional efforts are needed to facilitate grid infrastructure delivery: supply chains, financing and regulation. On supply chains, the participants called for the availability of equipment in the needed volumes and times, at reasonable prices, and preserving manufacturing in Europe. Steps in support include further harmonisation of practices throughout Europe, both long-term solutions like technical standardisation and network codes (NCs), and short-term ones, like common procurement practices and specifications. The skills gap in the sector (especially lack of engineering

workforce) has been recognised as an emerging challenge. Regarding financing of grid infrastructure scale-up, participants called for de-risking investments and anticipatory investments were discussed as one of the facilitating measures. Given regulators' key role with regard to anticipatory investments, the Commission will engage closely with the NRAs ahead of issuing its proposal early next year. Concerning the regulatory dimension, participants expressed diverging views on whether today's regulatory schemes are adequate for the upscaling of grid investments. While principles of efficiency and long-term planning remain crucial, further reflection is needed on how to handle uncertainty and the need for timely delivery on energy and climate targets. One of the conclusions was that any decision on infrastructure investments and subsequent permitting needs to consider nature inclusion and involvement of citizens and local authorities. Ms Sikow-Magny also recalled the importance of implementation and the need to keep conveying the message that cooperation (including at regional level) not only minimises the costs, but that interdependence and well-functioning markets had helped mitigate the impact of the energy crisis. These discussions will be pursued further at the formal Energy Council of 30 May, which is expected to issue conclusions on grid discussions, while the upcoming Energy Infrastructure/Copenhagen Forum (in June) and informal Energy Council (in July, under the Hungarian Presidency) plan to focus on cost-sharing.

The members expressed concerns that anticipatory investments could become a goal in itself driven by private interests rather than driven by the interest of consumers. They also underlined that from the perspective of the regulators, it is important to strongly support the principle of efficiency and that if existing planning tools are not fit for purpose, these should be improved. Some members mentioned the importance of ensuring that system operators are incentivised to find the most efficient solutions, rather than solely focusing on grid built out. It was highlighted that consumers should not be overburdened. Moreover, the cost of transition debate should also transparently communicate the value it brings (e.g., security of supply dividend, carbon dividend, avoided costs etc.). Regulators also agreed that currently, a key source of infrastructure bottleneck are the supply chain challenges, including the lack of skilled human resources and standardisation of equipment, which go beyond their remit.

### **3.2. Baltic Sea High-Level Energy Security Meeting of 10 April: key outcomes**

Mr Benas Skublickas informed members of the key outcomes of the above event hosted by the Lithuanian minister and gathering Baltic Sea basin Member States, the Belgian Presidency, the European Commission, ACER, stakeholders including TSOs in the region, European wind energy representatives plus the North Atlantic Treaty Organization (NATO, per the link with geopolitical concerns and energy security). This event was a follow-up to the regional summit held in Denmark in 2022, and sought to facilitate political agreement on offshore wind energy development in the Baltic Sea and regional cooperation with a focus on infrastructure and interconnectivity (discussion moderated by the ACER Director), energy security and resilience of critical energy infrastructure, and energy economics. Energy ministers from the 8 Baltic Sea countries signed the Vilnius Declaration reaffirming the commitment to implement the actions outlined in the EU Wind Power Package and pledging closer collaboration to secure critical offshore energy infrastructure in the Baltic Sea region. The signatories commit to deterring possible malign activities against offshore and underwater infrastructure.

## **4. ITEMS FOR BOR OPINION/APPROVAL/AGREEMENT**

### **4.1. ACER Annual Activity Report 2023: independent section on regulatory activities**

The BoR approval of the regulatory section of the 2023 consolidated Annual Activity Report was postponed until the June BoR.

### **4.2. ACER Decision on the European Resource Adequacy Assessment (ERAA) 2023**

ERAA 2023 was submitted to ACER on 15 December 2023 and ACER had 3 months to issue a decision. The ERAA methodology is expected to be fully implemented by ENTSO-E in ERAA 2024.

On 6 February, ACER was informed of a data/modelling error in ERAA 2023 and the need to perform a rerun of the models, and the BoR decision had to be deferred to this meeting. The AEWG advice was circulated previously.

During the commenting period, one proposal for comment and one proposal for amendment to the ACER Decision were submitted, and the BoR Chair asked the author of these proposals to explain their rationale. The NRA explained the rationale of the amendment and the comment in detail.

The BoR was invited to vote on the proposal for comment. 23 members participated (4 abstained and rest voted in favour) and the BoR adopted the comment by the requisite two-thirds majority of the members present and represented.

The BoR was invited to vote on the proposal for amendment. 23 members participated (4 abstained and the rest voted in favour) and the BoR adopted the amendment by the requisite two-thirds majority of the members present and represented.

The BoR was invited to issue its favourable opinion on the ACER Decision reflecting the adopted amendment and comment. 23 members participated (1 member abstained and the rest voted in favour) and the BoR granted its favourable opinion by the requisite two-thirds majority of the members present and represented.

### **4.3. ACER Decision on the amendment of the methodology for Coordinated Operational Security Analysis**

Commission Regulation (EU) 2017/1485 of 2 August 2017 establishing a guideline on electricity transmission system operation (the SO Regulation) laid down a range of requirements including for the development of a methodology for coordinating operational security analysis (CSAM) in accordance with Article 75 of the same. The CSAM was developed by the TSOs and approved by ACER on 19 June 2019 (Decision No 07/2019), and amended in 2021 (Decision No 7/2021). On 17 November 2023, ENTSO-E submitted a

proposal for further amending the CSAM pursuant to Article 75. The deadline for this decision is 17 May.

The proposed amendments sought inter alia to align with the recommendations from the Expert Panel’s final report on the 8 January 2021 incident and incorporate the amendments according to ACER Decision No 7/2021 and the ACER Corrigendum of 27 January 2023.

The AEWG advice was circulated, and in the absence of proposals for amendments and comments, the BoR was invited to vote on the BoR favourable opinion on the Director’s initial proposal. 23 members participated and the BoR unanimously granted its favourable opinion.

**4.4. ACER Decision on the request of the regulatory authority of the Netherlands to extend the period for adopting coordinated decisions on cross-zonal risk hedging opportunities**

On 18 February 2024, ACM requested a six-month extension to adopt coordinated decisions with NVE-RME on cross-zonal risk hedging opportunities for the bidding zone border NO2-NL in accordance with Article 30(2) of the Forward Capacity Allocation (FCA) Regulation. The coordinated decisions were due on 19 February 2024 so the extension would push the deadline back to 19 August 2024.

The NRAs have carried out the assessment of cross-zonal risk hedging opportunities under Article 30 of the FCA Regulation but have not been able to reach coordinated decisions. Instead, they agreed to update their respective assessments and require a further 6 months to complete their assessments taking account of further analysis. ACER considers that a six-month extension is justified and would be sufficient for ACM and NVE-RME to update their assessments and to adopt coordinated decisions, and thus proposes to grant the request.

The AEWG advice was circulated, and in the absence of proposals for amendments and comments, the BoR was invited to vote on the BoR favourable opinion on the Director’s initial proposal. 23 members participated and all voted in favour but for 1 abstention. The BoR issued its favourable opinion by the requisite two-thirds majority of the members present and represented.

Decisions/Conclusions	
4.2	The BoR adopted the proposals for comment and amendment to the ACER Decision on the European Resource Adequacy Assessment 2023 by the requisite two-thirds majority of the members present and represented, and issued its favourable opinion on the same by the requisite two-thirds majority of the members present and represented.
4.3	The BoR granted its favourable opinion on the ACER Decision on the amendment of the methodology for Coordinated Operational Security Analysis by consensus of the members present and represented.
4.4	The BoR granted its favourable opinion on the ACER Decision on the request of the regulatory authority of the Netherlands to extend the period for adopting coordinated

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decisions on cross-zonal risk hedging opportunities by the requisite two-thirds majority of the members present and represented.

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## 5. AWG KEY ISSUES

### 5.1. AWG/ARC key updates

- 2024 European Gas Regulatory Forum

The AGWG Chair informed members of the steps for the creation of a new Hydrogen TF. The nascent hydrogen market provides an opportunity to consider key regulatory aspects at the outset. The terms of reference for the new TF will shortly be finalised and the call for TF co-convenor already launched by the Secretariat with a view to have the convenors appointed at the next AGWG meeting in May. The Secretariat also called on NRAs to appoint members to this TF.

The AGWG Chair also informed members about the preparations for the Madrid Forum (25 April), which focus is on topics such as the implementation of the Hydrogen and Decarbonised Gas Package, the status of gas markets, the regulatory framework for LNG, and the prospective amendments to the Capacity Allocation Mechanisms NC and Congestion Management Procedure guidelines. ACER/CEER presentations were shared with the BoR.

- Demand Response Network Code (DR NC) update

Ms Tellidou informed members on ongoing work on the DR NC: discussions (in the DR project team, the Balancing TF, the AEWG and the BoR) are progressing in parallel with the work of the Drafting Committee to provide feedback. Ms Tellidou also outlined the process for the revision of the DR NC expected on 8 May: the public consultation will start in the beginning of June and a revised draft is expected to be finalised in October alongside the recommendation and approved in December.

The AEWG Chair provided additional updates on the NC on Cybersecurity, which is expected to enter into force before the summer. Over the period of six months following the entry into force of the NC, Article 4(1) provides that until a Member State has designated a competent authority, NRAs are responsible for carrying out the tasks of the competent authority. The AEWG Chair also referred to several cases of missed deadlines to be investigated further.

- ACER/FSR study on total expenditure incentives

Despite some good practices, current regulatory frameworks and incentive schemes seem insufficient to address the pressing need for wide-scale deployment of efficient investments. ACER issued a position paper on Incentivising Smart Investments to Improve the Efficient Use of Electricity Transmission Assets in 2021, and in 2023, asked the Florence School of Regulation to conduct a study on benefit-based remuneration (as opposed to cost-based) to promote efficient infrastructure development. With the EC Grids Action Plan (action 8), ACER is tasked with recommending best practices in relation to the promotion of smart grids and network efficiency technologies through tariff design, focusing on the consideration of OPEX



in addition to CAPEX and benefit sharing. The report will be presented at a hybrid event in Brussels on June 6th, 2024. Thereafter, ACER will continue the cooperation in identifying and disseminating good practices.

- Reprioritisation of the activities relating to the Electricity Balancing (EB) Regulation

On 27 March, a letter was sent to ENSTO-E and the Chairs of the Picasso and MARI Steering Committees, calling on them to facilitate and speed up the TSOs' accession to the European balancing platforms for the exchange of balancing energy in view of the 24 July deadline. To facilitate this process, ACER, in close cooperation with the NRAs, has decided to reorganise some of its activities related to the EB Regulation. In light of this reprioritisation, members were asked to agree to issue the BoR favourable opinion on the balancing decisions by way of electronic procedure, to which they unanimously agreed.

## 5.2. 11th ACER report on congestion in the EU gas markets and how it is managed

ACER monitors on an annual basis the status of congestion at Interconnection Points. ACER presented the preliminary results of the 11<sup>th</sup> report on congestion in the EU gas markets. The report will be finalised at WG level and published ahead of the 1 June deadline. Given that congestion was extensively monitored last year, this year's report is shorter and focused on data.

### Decisions/Conclusions

5.1

The BoR unanimously agreed to the use of an electronic procedure to issue its favourable opinion on the balancing decisions.