

126th ACER Board of Regulators Meeting

18 September 2024 | 09:00 - 14:00

Budapest (MEKH premises), hybrid

MINUTES

| Represented institutions | Names ¹ |
|--------------------------|---|
| E-CONTROL (Austria) | M: Wolfgang Urbantschitsch; O: Christine Materazzi-Wagner; O: Katharina Ledermann-Tappeiner |
| CREG (Belgium) | M: Koen Locquet; A: Geert Van Hauwermeiren |
| EWRC (Bulgaria) | A: Blagoy Golubarev |
| HERA (Croatia) | M: Željko Vrban |
| CERA (Cyprus) | A: Alkis Philippou |
| ERU (Czech Republic) | A: Jana Haasová |
| DUR (Denmark) | A: Birgitta Bundgaard |
| ECA (Estonia) | A: Marilyn Tilkson |
| EV (Finland) | M: Simo Nurmi |
| CRE (France) | M: Emmanuelle Wargon; A: Ivan Faucheux; O: Amélie Redortier; O: Cynthia Di Leonforte |
| BNetzA (Germany) | M: Annegret Groebel; O: Alexander Linov |
| RAAEY (Greece) | M: Athanasios Dagoumas; O: Yuriy Bilen; O: Konstantinos Tsimaras |
| MEKH (Hungary) | M: Pál Ságvári; A: Gergely Szabó; O: Tamás Gyarmati; O: István Szabó |
| CRU (Ireland) | M: Jim Gannon; O: Clodagh Hunt-Sheridan; O: Barry Hussey; O: Eilis McDonnell |
| ARERA (Italy) | M: Clara Poletti; A: Francesco Cariello; O: Ilaria Galimberti |
| PUC (Latvia) | M: Rota Šņuka; O: Alda Ozola; O: Lija Makare |

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

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| NERC (Lithuania) | M: Renatas Pocius; A: Irma Zdanienė; O: Benas Skublickas |
| ILR (Luxembourg) | M: Claude Rischette |
| REWS (Malta) | - |
| ACM (Netherlands) | A: Michiel Denkers, O: Nora Meray |
| URE (Poland) | M: Rafał Gawin; A: Małgorzata Kozak |
| ERSE (Portugal) | M: Pedro Verdelho; A: Natalie McCoy; O: Rita Laranjeira |
| ANRE (Romania) | A: Tatiana Iosiper; O: Patricia Adegbuyi |
| URSO (Slovakia) | A: Mária Bronišová; O: Vlastimil Jurkuliak |
| AGEN-RS (Slovenia) | A: Bojan Kuzmic |
| CNMC (Spain) | M: Josep María Salas Prat; O: Gema Rico |
| EI (Sweden) | M: Ulrika Hesslow; A: Caroline Tornqvist; O: Johan Roupe |
| NVE-RME (Norway) | A: Anne Dønnem |
| EEA-EFTA State - Iceland | M: Hanna Björg Konráðsdóttir |
| EFTA Surveillance Authority | - |
| ACER | Christian Zinglensen, Christophe Gence-Creux, Rafael Muruais Garcia, Martin Godfried, Volker Zuleger, Csilla Bartok, Tina Voncina, Fay Geitona, Mitsuko Akiyama, Argyro Lykaki |
| European Commission | Christof Lessenich |

1. RESTRICTED SESSION: BOR OPINION UNDER ARTICLE 23(4) ACER REGULATION 2019/942

The BoR discussed and adopted its Opinion under Article 23(4) of the ACER Regulation in a restricted session with voting and non-voting members and alternates (25 members attended).

2. OPENING

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

The MEKH President (Dr Edit Juhász) welcomed the participants. She referred to the energy transition as the greatest challenge of the future and underlined the importance of cooperation among energy regulators and ACER, and their key role in proposing adequate regulatory frameworks and solutions for the challenges identified. Ms Juhász also called for further advancing the EU internal energy market.

The agenda of the 126th 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.

2.2. Minutes of the 125th BoR meeting

The minutes of the 125th BoR meeting were approved and sent to the European Parliament on 30 July 2024.

Decisions/Conclusions

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| 2.1 | The BoR approved the agenda. |
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3. UPDATES FROM THE ACER DIRECTOR AND THE BOR CHAIR

3.1 Update from ACER

ACER Director updated members on the state of the ACER Eplatform.

3.2 Update from the BoR Chair and Vice-Chair

The current 5-year mandate of ACER Director Mr Zinglensen concludes on 31 December 2024. The ACER Regulation (EU) 942/2019 foresees a single extension of the Director's mandate for 5 years. In accordance with Article 23(3) of Regulation (EU) 942/2019, the European Commission (College of Commissioners) decided to propose the extension of Mr Zinglensen's mandate to the ACER Administrative Board (AB). This initiated the procedure

outlined in Article 23(4) of the ACER Regulation, which requires the AB to first consult the BoR for its assessment and opinion on the Commission's proposal. The AB Chair notified the Commission's proposal to the BoR Chair on 12 September and per the previous arrangements, the draft BoR Opinion was discussed in a restricted session (see point 1 above).

The BoR Chair announced that the BoR had unanimously adopted its Opinion endorsing the Commission's proposal to extend Mr Zinglensen's term of office for a further five years pursuant to Article 23(4) of ACER Regulation 2019/942.

The BoR Vice-Chair announced that his term as President of URE ended on 23 July 2024. The government launched the procedure for selecting his successor and until this process is completed, Mr Gawin will continue to fulfil his responsibilities, including as URE member of the BoR.

4. WIDER ENERGY UNION

4.1. Updates from the European Commission

Mr Lessenich outlined the institutional setup of the next European Commission (2024-2029) that was announced by EC President von der Leyen on the previous day, unveiling the list of Commissioners-designate and their portfolios reflecting the ambitions set out in her Political Guidelines published in July. The mission letter to Mr Dan Joergenesen, Commissioner-designate for Energy and Housing, places strong emphasis on competitiveness and its energy-related aspects, similarly with Professor Draghi's report on the Future of European Competitiveness. It underscores two action plans, one focused on affordable energy prices and the other on electrification taking into account the latest legislation such as electricity market reform and the Hydrogen and Gas Decarbonisation Package. The mission letter also tasks him with updating and simplifying the governance of the Energy Union. The Commissioners-designate will now attend parliamentary hearings. The new Commission is scheduled to begin its work on 1 November, but this may be delayed depending on the hearing schedule and outcomes.

Among other recent developments, Mr Lessenich also referred to the ongoing targeted consultation on the revision of the electricity guideline on forward capacity allocation and the resumption of the work on the revision of the Capacity Allocation and Congestion Management Regulation. Furthermore, the EC launched the "Fitness Check evaluating EU energy security architecture" (discussed below) with the intention of refining and advancing these rules as needed during the next mandate.

4.2. Inčukalns underground storage regulation

Ms Šņuka presented recent developments in Latvia, which have prompted draft amendments to regulations governing the use of the Inčukalns Underground Gas Storage Facility, a key piece of gas infrastructure of significant regional relevance with a huge demand. In September 2024, the Latvian parliament adopted changes to the Energy Law, allowing the Inčukalns facility to be used for strategic gas reserves for Lithuania, Estonia, and Finland. These

amendments are aligned with Regulation (EU) 2017/1938 on measures to safeguard gas supply security and signed agreements on solidarity measures for gas supply between the countries. Additionally, the changes to the Energy Law stipulate that, starting on 1 May 2026, the tariffs set by the Public Utilities Commission (PUC) will no longer apply to the facility's operator, Conexus Baltic Grid. Instead, Conexus Baltic Grid will conduct auctions, but the regulator will not set a “floor” tariff. In light of these legislative changes, Conexus Baltic Grid submitted proposals to the PUC for amending the facility's regulations, including modifications to capacity products and their usage procedures. Conexus Baltic Grid will offer longer-term contracts of 5 years, which would take up to 80% of storage's technical capacity, and short-term contracts of one-year, compared to the current one- and two-year bundled capacity contracts. The PUC has prepared draft amendments, with a consultation period open until September 20, allowing stakeholders to provide feedback on the proposed changes.

5. ITEMS FOR BOR OPINION/APPROVAL/AGREEMENT

5.1. ACER Opinion on the compliance of the Ten-Year Network Development Plan (TYNDP) 2024 Joint Scenario Report with ACER Scenario Guidelines

On 30 May 2024, ENTSO-E and ENTSO-G submitted their joint TYNDP 2024 Scenarios Report to ACER, which is tasked with assessing the draft Scenarios Report against the Guidelines and issuing possible recommendations for amendments to the ENTSOs, Member States and the Commission under Article 12(5) of the TEN-E Regulation 2022/869.

The Opinion was slightly revised following the last BoR discussion but maintains that a number of aspects are non-compliant with the Scenarios Guidelines. The Opinion also sets out a number of recommendations both for the 2024 and the next (2026) cycle, including for streamlining the scenario development process and a more effective stakeholder engagement.

The AWG advices were also circulated. As no proposal for comment/amendment was received by the deadline of 11 September, the BoR Chair asked whether there was consensus to grant the BoR favourable opinion and the BoR agreed.

5.2. ACER Decision on amendments to the price coupling algorithm and the continuous trading matching algorithm, including the common sets of requirements

On 24 November 2023, ACER received a proposal from Nominated Electricity Market Operators (NEMOs) for amending the 2020 methodology for the price coupling algorithm and the continuous trading matching algorithm, which sets the regulatory framework for: the algorithms used for matching bids from market participants; and allocating cross-zonal capacities in the European day-ahead and intraday electricity markets. The amendments, in particular for the day-ahead coupling algorithm, are needed to enable a co-optimised allocation of cross-zonal capacity for the exchange of balancing capacity or sharing of reserves. The main goal of the decision is to set the next steps for the research and development (R&D) phase with clear intermediate milestones.

The AEWG advice was circulated. As no proposal for comment/amendment was received by the deadline of 11 September, the BoR Chair asked whether there was consensus to grant the BoR favourable opinion and the BoR agreed.

5.3. ACER Decision on the amendment of the methodology for calculating scheduled exchanges resulting from single day-ahead coupling (DA SEC methodology)

On 4 April 2024, ENTSO-E, on behalf of all TSOs, submitted a proposal for amending the DA SEC methodology to all NRAs. The amendments are related to the implementation of 15 min Market Time Unit (MTU) in day-ahead. The methodology was referred to ACER on 24 May 2024 and the deadline for ACER’s Decision is 25 November 2024.

To go live with the 15’ MTU in SDAC, the SDAC algorithm needs to have its performance improved to process the increased amount of data within the limited time available for calculation. This is the reason why TSOs now propose to amend the DA SEC methodology to introduce a back-up functionality for the calculation of DA SEC between the bidding zones, which will increase the robustness of the SDAC algorithm (and in extreme cases prevent decoupling).

As no proposal for comment/amendment was received by the deadline of 11 September, the BoR Chair asked whether there was consensus to grant the BoR favourable opinion, and the BoR agreed.

5.4. ACER Decision on the amendments to products that can be taken into account in the single day-ahead coupling (SDAC Products Methodology)

On 26 April 2024, all NEMOs submitted their proposal for amending the SDAC Products Methodology. This ACER Decision is linked with the previous one and the amendments are based on the conclusion of all NEMOs that improvements are needed for defining and fine-tuning the products setup in SDAC ahead of the go-live of 15’ MTU products in SDAC in January 2025. The deadline for this Decision is 28 October 2024.

As no proposal for comment/amendment was received by the deadline of 11 September, the BoR Chair asked whether there was consensus to grant the BoR favourable opinion and the BoR agreed.

| Decisions/Conclusions | |
|-----------------------|---|
| 5.1 | The BoR issued its favourable opinion on the ACER Opinion on the compliance of the ENTSO-E-ENTSOE Ten-Year Network Development Plan 2024 Scenarios Report with ACER Scenarios Guidelines by consensus of the members present and represented. |
| 5.2 | The BoR issued its favourable opinion on the ACER Decision on amendments to the price coupling algorithm and the continuous trading matching algorithm, including the common sets of requirements, by consensus of the members present and represented. |

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| 5.3 | The BoR issued its favourable opinion on the ACER Decision on the amendment of the methodology for calculating scheduled exchanges resulting from single day-ahead coupling by consensus of members present and represented. |
| 5.4 | The BoR issued its favourable opinion on the ACER Decision on the amendments to products that can be taken into account in the single day-ahead coupling by consensus of the members present and represented. |

6. AWG KEY ISSUES

6.1. AWG/ARC key updates

- AEWG updates; ACER-CEER technical paper on the challenges of the future electricity system

The AEWG Chair presented updates on TSO accession to the Balancing Platforms as well as the recent all TSO decision against the implementation of long-term flow-based allocation.

The AEWG Chair also reiterated the call for active NRA involvement in upcoming work inter alia on Capacity Allocation and Congestion Management (CACM) amendments, the Network Code on Demand Response, flexibility assessment methodology and infrastructure tasks, alongside work in connection with the decoupling events.

The AEWG Chair presented the outcome of the AEWG survey on the next steps for the ACER-CEER technical paper on the challenges of the future electricity system. The BoR agreed that the current focus should rather be on how to deliver on the commitments given in the strategic paper and the AEWG Chair invited members to submit their comments on the proposals set out in her presentation (document 6.1) by 26 September. The Director and the BoR Chair also suggested broader, strategic discussions at future BoR meetings to identify and prioritise upcoming challenges.

- Organisation of ACER/CEER response to the EC Fitness Check evaluating EU energy security architecture

The AGWG Chair referred to the ongoing EC Fitness Check to evaluate EU energy security architecture, which closes on 26 November. The “fitness check” will assess the effectiveness, efficiency, coherence, relevance and EU added value of the existing rules on security, resilience and autonomy of the EU’s energy system. The key regulations within scope (the Gas Security of Supply Regulation 2017/1938 and the Electricity Risk Preparedness Regulation 2019/941) call for a comprehensive, cross-sectoral approach, and the BoR discussed how best to engage in this exercise and ACER’s continued involvement in discussions on this important topic (whilst it will not issue a formal response).

- Ongoing work of the Ad-hoc Group for Compliance and Enforcement on the monitoring/enforcement framework - status update

Recalling the discussions at the meeting of the Energy Regulators’ Forum held on 17 September, the BoR Chair shared her observations on the complexity of the compliance and

enforcement framework and insisted on pushing the work further to deliver on the obligations of TSOs including the implementation of the network codes and guidelines.

- Appointment of the new ARC Co-Chair

The ARC Co-Chair informed members about the outcome of an advisory vote on the appointment of her successor. The Director's Decision on the appointment will follow.

6.2 ACER's opinion on the Estonian national resource adequacy assessment

ACER is issuing an opinion on the national adequacy assessment received from Estonia in July. ACER had 2 months to opine on whether discrepancies with the European Resource Adequacy Assessment (ERAA) i.e. national adequacy concerns that are not reflected in ERAA are justified. This opinion is the first of its kind and focuses on 2 aspects: the assumptions used and the methodological aspects. The body responsible for the national adequacy assessment must take due account of ACER's opinion and where it decides to maintain its assessment, publish a report detailing the reasons.

Mr Muruais Garcia also outlined the approach taken by ACER for involving relevant actors, which worked positively, and Ms Tilkson thanked ACER for the good collaboration.

6.3. Market Monitoring Report (MMR): Energy retail and consumer protection

Ms Bartok, Head of the Gas, Hydrogen and Retail Department, presented the findings of the report, which underlines the key message that the energy transition will not occur without more active consumers and analyses what changes are still needed. The main recommendations are to prioritise demand-side response frameworks, incentivise efficient grid use, and accelerate the rollout of smart meters which, together with flexible electricity price contracts and a better understanding of flexible energy consumption, would facilitate retail consumers' participation in the decarbonisation transition. The Director also brought to the fore the links between the data-underpinned observations, which the BoR subsequently discussed, and challenges addressed in this MMR volume and other deliverables.