



## **ACER update to the ECRB**

*Dennis Hesseling, ACER representative to the ECRB*

**9 October 2019, Athens/Ljubljana**

**1. Opening**

**2. Updates**

**3. Gas Bridge paper**

**4. Items for opinion, endorsement, approval or agreement**

**5. Cross-sectoral**

**6. Electricity**

**7. Gas**

1. Opening

2. Updates

3. Gas and  
sector coupling  
paper

4. Items for  
opinion or  
approval

5. Cross  
sectoral

6. Electricity

7. Gas

### 2. Updates on recent developments

#### ACER Latest publications

22/03/2019: Guidance on Layering and Spoofing in Continuous Wholesale Energy Markets.

28/03/2019: Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Greece.

01/04/2019: Decision on the proposal of all EU Transmission System Operators (TSOs) for the amendment to the determination of capacity calculation regions.

05/04/2019: Report on the conditionalities stipulated in contracts for standard capacity products for firm capacity.

10/04/2019: Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Ireland.

11/04/2019: Decision on gas interconnection between Hungary and Austria.

12/04/2019: ACER consultation on single capacity booking platform for gas between Germany and Poland.

17/04/2019: Analysis of the Consultation Document on the Gas Transmission Tariff Structure for Croatia.

08/05/2019: Open call for Gas Capacity Booking Platforms to submit offers for two interconnection points between Germany and Poland.

1. Opening

2. Updates

3. Gas and  
sector coupling  
paper

4. Items for  
opinion or  
approval

5. Cross  
sectoral

6. Electricity

7. Gas

### 2. Updates on recent developments

#### ACER

#### Latest publications

- 07/06/2019: ACER's Board of Appeal has extended the term of its Chair Andris Piebalgs, and Vice Chair, Jean-Yves Ollier, for a second two and a half year mandate.
- 03/06/2019: Communication of the Agency on the implementation of the Network Code on Harmonised Transmission Tariff Structures for Gas in Austria
- 28/05/2019: Sixth edition of the Annual Report on Contractual Congestion at Interconnection Points
- 28/05/2019: Agency's Decision on all regulatory authorities' request to extend the deadline to decide on all TSOs' amended proposal for the implementation framework for a European Platform for the imbalance netting process
- 27/05/2019: Agency Opinion on the National Electricity Network Development Plans and their consistency with the EU Ten-Year Network Development Plan
- 24/05/2019: Analysis published on Tariff Code implementation for the BBL interconnector between the UK and the Netherlands
- 08/05/2019: Open call for Gas Capacity Booking Platforms to submit offers for two interconnection points between Germany and Poland

1. Opening

2. Updates

3. Gas and  
sector  
coupling  
paper

4. Items for  
opinion or  
approval

5. Cross  
sectoral

6. MIT &  
MSC

7. Gas

8.  
Electricity

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#### ACER

##### Latest publications

10/07/2019: ACER fifth annual report on the progress of Projects of Common Interest (PCIs)

04/07/2019: ACER Report on the implementation of the TAR NC in Lithuania.

02/07/2019: Opinion on ENTSOGs TYNDP 2018

21/06/2019: Decision on the methodology for assessing the relevance of assets for outage coordination (RAOCM)

21/06/2019: Decision on the methodology for coordinating operational security analysis for all TSOs (CSAM)

1. Opening

2. Updates

3. Gas and  
sector coupling  
paper

4. Items for  
opinion or  
approval

5. Gas

6. Electricity

7. MIT&MSC

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#### ACER

##### Latest publications

09/09/2019: ACER released the conclusions on the III Energy Market Integrity and Transparency Forum online

27/08/2019: ACER consultation on the capacity calculation methodology for the long-term timeframe in between DK, FI, SE.

23/08/2019: ACER consultation on the amendments to the harmonised allocation rules for cross-border transmission in electricity

09/08/2019: ACER Recommendation for implementing the 70% minimum margin of capacity available for cross border trade in electricity.

08/08/2019: ACER Decision on the gas capacity booking platform the DE-PT border.

01/08/2019: ACER consultation on the amendment of Core regional design of long-term transmission rights.

29/07/2019: ACER Decision on the methodology for coordinated redispatching and countertrading in BG, GR & RO.

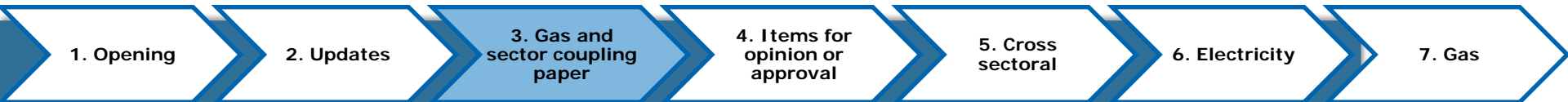
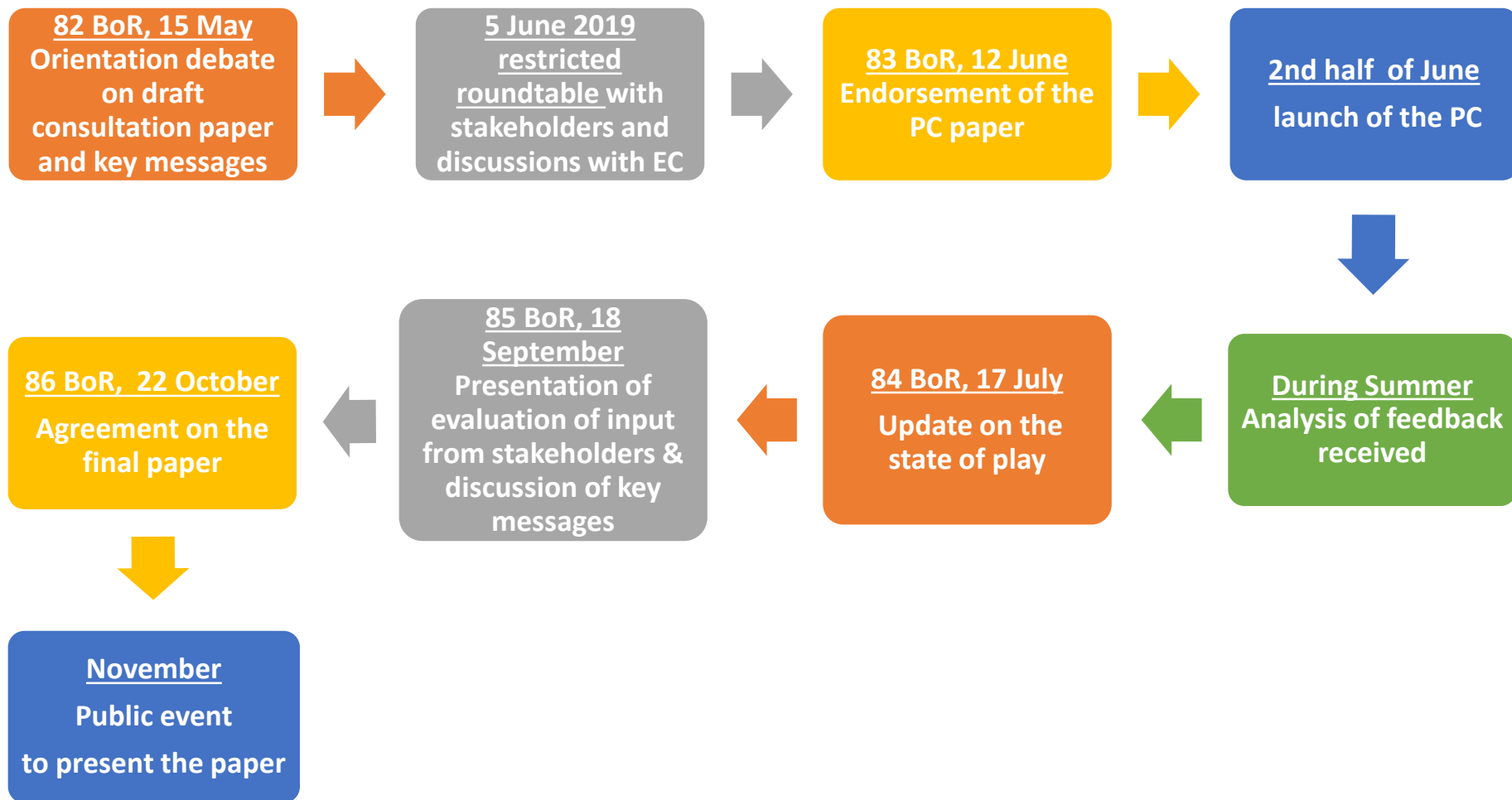
23/07/2019: ACER consultation on the future of gas regulation in the EU.

16/07/2019: updated version of the 4<sup>th</sup> Edition of the ACER Guidance on the application of REMIT and ACER consults on the definition of inside information.



### 3. Gas Bridge paper

## Timeline for the preparation of the paper



## 3. Gas Bridge paper

- Consultation on the gas paper following the 17<sup>th</sup> July (84<sup>th</sup>) BoR until beginning of autumn.
- The scope of the consultation paper will cover three areas identified and discussed at the restricted roundtable with key stakeholders on 5 June, taking stock of the feedback from the CEER consultation; the paper will take the next step forward to address the issues under the three areas in a more ambitious way
  1. Targeted regulation and market functioning
  2. Enabling new products
  3. Infrastructure governance
- Following the consultation, we shall aim to align the timing for CEER & ACER **final** paper(s) in autumn.



### 3.1 Presentation of evaluation of input from stakeholders

The Bridge consultation paper identified 11 topics for “proposed responses”. Those topics were divided into related “themes”:

1. Access and market monitoring
2. Governance of infrastructure and oversight of existing and new entities
3. Dynamic regulation for new activities and technologies
4. Transmission tariffs
5. Others

The drafting team is analysing intensively the all (69) responses that came in. They will summarise the key issues under each “theme” in the paper.

The key messages are intended to be presented at the October BoR.

The approval of the paper is foreseen to be arranged through electronic procedure in November.

The date for a launch event for the paper will be November 20.

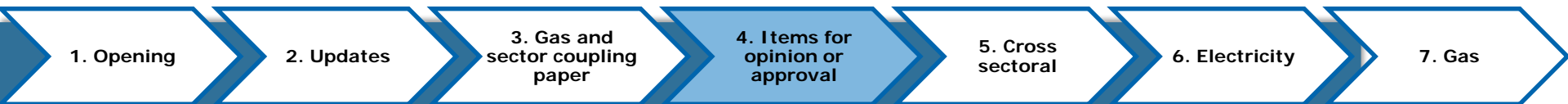


## 4.2 ACER Annual Activity Report 2018 – independent section on regulatory activities for approval *For approval*

The ACER Annual Activity Report reflects on the activity and regulatory achievements of the Agency during 2018. The BoR is required to approve the independent section of the ACER Annual Activity Report (AAR) on regulatory activities under Article 13(12) of the ACER Regulation.

Following the BoR approval the report is submitted to the AB for adoption. The AAR must be submitted to the EC in June.

**The AAR 2018's independent section on regulatory activities was submitted for BoR approval.**



## 4.1 Revised BoR Rules of Procedure

*For approval*

The BoR discussed the key areas for imminent revision of the BoR Rules of Procedure (RoP). These short-term “must-do” adaptations are urgent in order to have a robust process in place in line with the new ACER Regulation, before its entry into force. The BoR provided comments at the BoR, afterwards, and again on a preliminary revised version ahead of the June BoR.

Following the BoR feedback, the BoR RoP were submitted for discussion and approval.

**The revised BoR Rules of Procedure were submitted for approval.**



## 4.2 ACER Decision on the methodology for Coordinating Operational Security Analysis (CSAM)

*For favourable opinion*

The SO Regulation laid down a range of requirements for operational security analysis coordination, among which the requirements for the development of a methodology for coordinating operational security analysis ('CSAM') in accordance with Article 75 of the SO Regulation.

All TSOs are required to develop a proposal for the CSAM in accordance with Article 75 of the SO Regulation and submit it to all regulatory authorities for approval within six months after the receipt of the proposal by the last regulatory authority.

The Decision of the Agency follows from the request of all regulatory authorities that the Agency adopts a decision on the proposal for CSAM, which all TSOs submitted to all regulatory authorities and on which those regulatory authorities could not agree.

**The Agency's draft Decision was submitted for a favourable opinion.**



## 4.3 ACER Decision on the methodology for Relevant Asset Outage Coordination (RAOCM)

*For favourable opinion*

The SO Regulation lays down the requirements for outage coordination, including the requirements for the development of a methodology for assessing the relevance of assets for outage coordination ('RAOCM') in accordance with Article 84 of the SO Regulation.

All TSOs are required to develop an agreed proposal for RAOCM, at least per synchronous area, and submit it to the regulatory authorities of the concerned region(s) for approval.

All TSOs developed one RAOCM, meant to apply Union-wide, including all synchronous areas within the Union. Accordingly, the same proposal of RAOCM was submitted to all regulatory authorities concerned at Union level.

The Decision of the Agency follows from the request of all regulatory authorities that the Agency adopts a decision on the proposal for RAOCM, on which the regulatory authorities agreed to refer for decision to the Agency.

**The Agency's draft Decision was submitted for a favourable opinion.**



## 4.4 ACER Opinion on ENTSOGs Ten-Year Network Development Plan 2018

*For favourable opinion*

Pursuant to Article 9(2) of Regulation (EC) No 715/2009, ENTSOG shall submit the draft TYNDP, including the information regarding the consultation process, to the Agency for its Opinion.

Pursuant to Article 6(3)(b) of Regulation (EC) No 713/2009, the Agency shall provide an opinion to ENTSOG, in accordance with the first subparagraph of Article 9(2) of Regulation (EC) No 715/2009, on the draft TYNDP, taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal markets in electricity and natural gas.

On 9 May 2019, ENTSOG submitted the draft TYNDP 2018 to the Agency for its Opinion, including the information regarding the consultation process.

**The Agency's draft Opinion was submitted for a favourable opinion.**



## 4.5 Update of the 4<sup>th</sup> edition of the ACER Guidance on the application of REMIT with regard to the effective disclosure of inside information *For endorsement*

Chapter 7 of the ACER Guidance on the application of REMIT covers the Agency's current understanding of the application of the obligation to disclose inside information in accordance with Article 4 of REMIT.

This chapter should be fully complied with after a transitional period which will be communicated by the Agency.

The chapter focusses on disclosure mechanisms, minimum quality requirements for effective disclosure of inside information, the timing of disclosure of information as well as exceptions to delay such disclosures. Further, the chapter covers the exemption in article 4(7) of REMIT related to critical infrastructure (as defined in Article 2(a) of Council Directive 2008/114/EC).

**The updated chapter with regard to the effective disclosure of inside information was submitted for endorsement.**



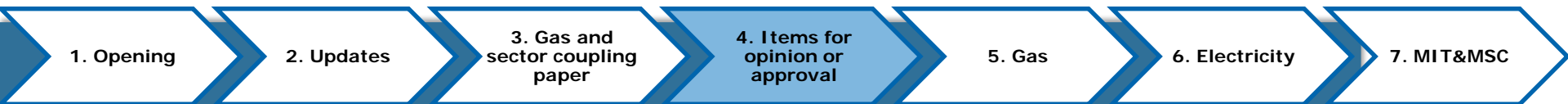
## 4.3 Revised ACER Programming Document 2019

*For favourable  
opinion/approval*

The revised ACER Programming Document (PD) 2019 is shared with the BoR for favourable opinion/approval (as per the ACER Regulation recast).

The PD has been revised on the basis of the mandate of the Agency pursuant to Regulation 2019/942, which entered into force on 4 July 2019. This includes new tasks to be implemented already in 2019, which has rendered necessary a partial redistribution of the limited human resources available to the Agency.

**The Agency's revised Programming Document 2019 was submitted for a favourable opinion/approval.**





## 4.4 ACER Opinion on ENTSOG's Summer Supply Outlook

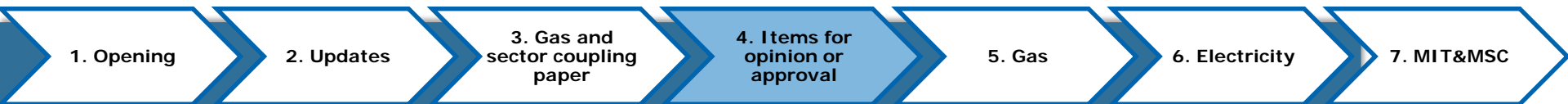
*For favourable opinion*

ACER's draft opinion states that ENTSOG' Summer Supply Outlook 2019 meets the objectives of Regulation (EC) No 2019/942 and Regulation (EC) No 715/2009 in terms of contributing to non-discrimination, effective competition and the efficient and secure functioning of the internal natural gas market.

The AGWG has not provided any further comments on the draft ACER Opinion.

**The deadline for amendments on the draft ACER opinion was 12 July at 16.00 CET. No amendments were submitted.**

**The Agency's draft opinion was submitted for a BoR favourable opinion.**



## 4.5. ACER Decision on the SEE methodology for coordinated redispatching and countertrading

*For favourable opinion*

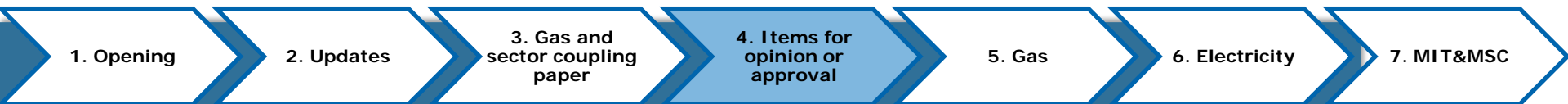
The Decision of the Agency follows from the request of all the regulatory authorities of the South-east Europe ('SEE') CCR ('SEE regulatory authorities') that the Agency adopts a decision on the amended proposal for the common coordinated RDCT methodology, which the TSOs of the SEE CCR ('SEE TSOs') submitted to all SEE regulatory authorities for approval.

The draft ACER decision proposes to approve the Amended Proposal subject to the necessary amendments.

The AEWG has not provided any further comments on the draft ACER Opinion.

**The Agency's draft Decision was submitted for a BoR favourable opinion.**

**The deadline for amendments on the draft ACER Decision was 12 July at 16.00 CET. No amendments were submitted.**



### 4.6 ACER Opinion on ENTSO-E's Summer Outlook 2019 and Winter Review 2018/2019

*For favourable opinion*

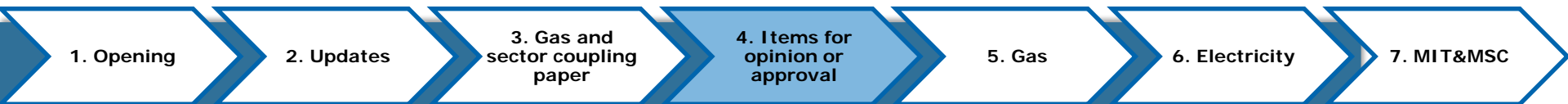
The SOR 2019 presents the TSOs' views on security of electricity supply and on the counter measures they plan during the time period from 27 May 2019 to 30 September 2019.

The WR 2018/2019 provides an overview of the major events in terms of security of supply during the past winter season covering the time period from 28 November 2018 to 31 March 2019.

The AEWG has not provided any further comments.

**The Agency's draft Opinion on ENTSO-E's Summer Outlook 2019 and Winter Review 2018/2019 was submitted for a favourable opinion.**

**The deadline for amendments on the draft ACER opinion was 12 July at 16.00 CET. No amendments were submitted.**



## 4.7 ACER Opinion on ENTSO-E's Annual Report

*For favourable opinion*

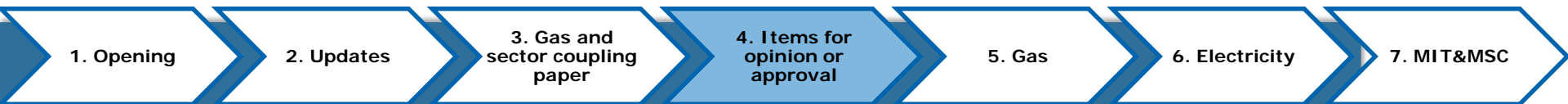
In the Annual Report 2018, ENTSO-E presents their key activity areas for 2018.

The Report covers ENTSO-E's activities in the area of the Internal Energy Market, which is divided into two parts related to i) network codes and ii) the future power system.

The AEWG has not provided any further comments.

**The Agency's draft Opinion on ENTSO-E's Annual Report was presented for a favourable opinion.**

**The deadline for amendments on the draft ACER opinion 12 July at 16.00 CET.**

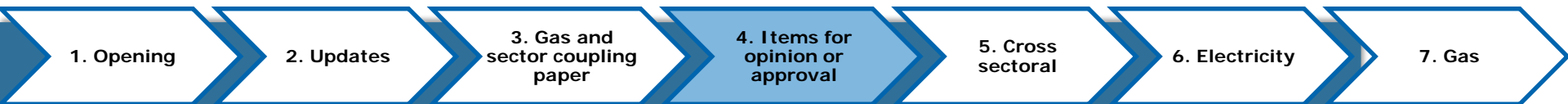


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The ACER Annual Activity Report reflects on the activity and regulatory achievements of the Agency during 2018. The BoR is required to approve the independent section of the ACER Annual Activity Report (AAR) on regulatory activities under Article 13(12) of the ACER Regulation.

Following the BoR approval the report is submitted to the AB for adoption. The AAR must be submitted to the EC in June.

**The AAR 2018's independent section on regulatory activities was submitted for BoR approval.**



## 4.1 ACER Decision on the Balansys compliance programme

*For favourable opinion*

Balansys is a 50/50 Joint Venture between Fluxys Belgium (OU) and Creos Luxembourg (exempted VIU TSO). Balansys serves as common balancing operator within BeLux area. The legal basis for the Agency's Decision is Art. 7(4) of the Gas Directive: approval of compliance programme by the Agency.

Regarding the current status: the public consultation ended on 1 July and there have been three submissions.

The Decision has been prepared and was shared with the AGWG for the AWG advice, which was given on 4 September, through electronic procedure.

**By the deadline (17 September) no amendment has been submitted.**

**A revised proposal by the Director was uploaded on 20 September following the comment received and late circulation was authorised by the BoR Chair.**

The draft Decision was shared for the BoR's favourable opinion.



## 4.2 ACER Opinion on ENTSOG's Annual Report 2018

*For favourable opinion*

ENTSOG's Annual Report 2018 generally contributes to the objectives of non-discrimination, effective competition, efficient and secure functioning of the internal gas market.

The Agency is of the view that the Annual Report for 2018 shows improvements in comparison to previous annual reports, in terms of a better structure, greater detail, and clearer presentation. However, the Agency provides several recommendations to improve future annual reports.

The draft Opinion was shared with the AGWG for its advice, which was given on 5 September 2019.

**By the deadline (17 September) no amendment has been submitted.**

**The draft Opinion was shared for the BoR's favourable opinion.**



## 4.3 ACER Opinions on the draft PCI lists 2019 (electricity and gas)

*For favourable opinion*

### Opinion on the draft PCI list 2019 GAS:

In view of the overall balance between the achieved improvements and the still present shortcomings, ACER is of the view that the European Commission's draft PCI list meets the objectives of Regulation (EU) No 347/2013 and Regulation (EC) No 715/2009.

- The AGWG advice was given on 5 September 2019.

### Opinion on the draft PCI list 2019 ELECTRICITY:

ACER is not able to confirm the consistent application of the criteria of Regulation (EU) No 347/2013 and of the cost-benefit analysis to all the candidate projects. ACER underlines that the transparency of the process and the methodologies used in the ongoing and future PCI selection processes could be improved, by taking into account ACER's recommendations in the Opinion.

- The AEWG advice was given on 9 September.

By the deadline (17 September) **no amendment has been submitted** on the **Electricity opinion**.

Regarding the **Gas opinion** **one amendment** has been submitted by the deadline.

- The BoR voted on the amendment submitted.
- **The draft Opinions were submitted for BoR's favourable opinion. Revised proposals by the Director were uploaded on 20 September following the comments received and late circulation was authorised by the BoR Chair.**





## 4.4 ACER Decision on Core NRAs' request for deadline extension for a decision on the Core RD&CT proposal

*For favourable opinion*

The Decision of the Agency follows from the request of the regulatory authorities of the Core CCR (Austria, Belgium, Croatia, Czech Republic, France, Germany, Hungary, Luxembourg, Netherlands, Poland, Romania, Slovakia and Slovenia) to extend the period for reaching an agreement on the TSOs' proposal for a common methodology for coordinated redispatching and countertrading and the proposal for a common methodology for redispatching and countertrading cost sharing (the 'Proposals') by six months, pursuant to Article 6(10) of Regulation (EU) 2019/942.

The Agency accepts the request for an extension submitted by the Core CCR regulatory authorities. The deadline is extended with six months until 27 March 2020.

The draft Decision was shared with the AEWG for its advice, which was given on 9 September and is circulated.

**By the deadline (17 September) no amendment has been submitted.**

**The draft Decision was shared for the BoR's favourable opinion**



### 5.2 Draft proposal for the formal establishment of the AWGs following the ACER regulation recast and BoR input for the AWGs RoP

*For discussion & agreement*

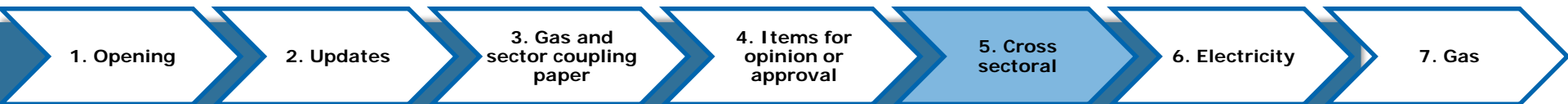
#### Background

The 81<sup>st</sup> BoR agreed to start working with the Director on a joint proposal for the establishment of the AWGs under the new provisions of the ACER Regulation recast (the AB establishes the AWGs on a joint proposal by the Director and the BoR and following a FO of the BoR). It was also foreseen that the BoR would have provided its input to the Director for a limited revision of the AWGs' RoP (the AB adopts the AWGs RoP following a proposal by the Director and subject to the BoR FO).

The urgency for the formal establishment of Electricity and Gas Working Groups, which are involved in the preparation of ACER acts under Article 24(2), as well as the need to adapt the RoP for these AWGs covering the elements which are necessary for their part (in order to provide advice) in the process for the adoption of ACER acts.

A more general discussion on AWGs and of their RoP will be undertaken at a later stage, and the Director Decision 2012-06 still applies to the AMIT WG, and Director Decision 2015-15 still applies to the REMIT Coordination Group.

**A draft (joint) proposal for the formal establishment of these two AWGs was submitted for BoR discussion and agreement. A revision of the RoP for the AWGs to be formally established was also submitted for discussion in order to provide the BoR input to the Director.**



### 5.2 Update on the Director proposal to the AB on the modified ACER Working Group Rules of Procedure

*For information*

Documents: *Doc 5.2 (BoR 83.05.2)*

With regard to the adaptation of the AWG RoP for the Electricity and Gas AWGs, the BoR at the May meeting considered quick-fix adaptations regarding the Articles 24(2) 30(1), 30(2), and 30(4) of the ACER Regulation recast following the agreement on the joint (BoR & Director) proposal for the establishment of these two AWGs. The BoR provided written comments after the meeting.

Regarding next steps, the Director submitted his formal proposal on the AWGs RoP to the AB, which subsequently sought the BoR favourable opinion as soon as the ACER Regulation recast entered into force.



### 5.3 Main findings of the consolidated report on the progress of projects of common interest (electricity and gas)

*For information*

Article 5 of Regulation (EU) No 347/2013 requires the Agency to monitor the progress achieved in implementing the projects of common interest (PCIs). The Agency carries out this monitoring on the basis of annual reports submitted by the project promoters and inputs received from NRAs.

The Report covers the period from 1 February 2018 until 31 January 2019.

Separate chapters of the Report include in-depth analyses of the electricity and gas projects and detailed sector-specific findings and recommendations.

The report was shared with the BoR for information.



## 5.1 8<sup>th</sup> Market Monitoring Report - Gas Wholesale

*For information*

The 8<sup>th</sup> edition of the MMR covers the year 2018 and consists of four volumes respectively on: the Electricity Wholesale Market, the Gas Wholesale Market, the Electricity and Gas Retail Markets, and Customer Protection and Empowerment. It covers the EU MSs and, for selected topics, also the Contracting Parties of the Energy Community.

This Gas Wholesale Volume presents the results of the monitoring of the European gas wholesale markets in 2018 and their trajectory towards an Internal Gas Market.

The Volume is divided into three analytical chapters. Chapter 2 presents the status of the European Internal Gas Market in 2018; Chapter 3 focuses on assessing the performance of gas markets based on the Agency's Gas Target Model (AGTM) indicators, which focus on the structural degree of competition and the functioning of gas markets; Chapter 4 analyses the market effects of network codes on market functioning. The Volume also provides a set of recommendations based on the outcome of the analytical work performed by ACER.



### 6.4 ACER Opinion on the consistency of the NDPs with the EU-TYNDP (electricity)

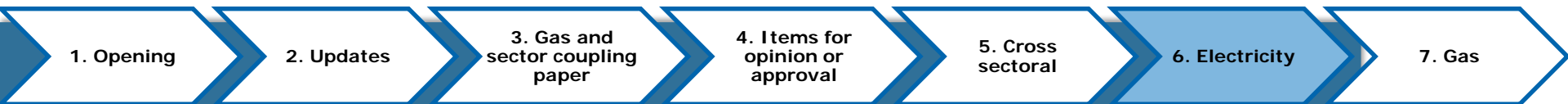
*For information*

The Agency will adopt an Opinion on electricity projects in the national network development plans (NDPs) and their consistency with the project clusters in the TYNDP 2018.

The Agency considers that the NDPs reviewed in this Opinion are broadly consistent with the EU TYNDP 2018.

The Agency recommends several measures to ENTSO-E to enhance the consistency between the NDPs and the EU TYNDP. The Agency also recommends several measures to increase the robustness, credibility and transparency of the NDPs.

**The ACER Opinion was shared for information.**



### 7.2 ACER Annual Report on Contractual Congestion at Interconnection Points (6<sup>th</sup> edition – shortened report) (NC CMP) *For information*

- The Agency will publish the sixth edition of the Annual Report on Contractual Congestion at Interconnection Points.
- This report aims to identify contractual congestion at Interconnection Points (IPs) in the European Union for products sold during 2018 for use in 2018, 2019 or 2020.
- The report analyses where demand exceeded the offer of firm capacity, and, (in line with paragraph 2.2.3(1)(d) of the CMP GL), at which IP sides no firm capacity product with a duration of one month or longer was offered.
- **The draft report was presented to the BoR for information.**

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7. Gas

**ACER**

Agency for the Cooperation  
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**Thank you for your attention!**

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