

**ACER** 

European Union Agency for the Cooperation  
of Energy Regulators

# **ACER update to the ECRB**

**Covering BoRs 104 - 107**

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**1. Updates**

**2. Items for BoR opinion, approval, or agreement**

**3. High energy prices**

**4. Electricity**

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## Publications

- **31/03:** ACER publishes updated guidance to facilitate REMIT reporting
- **28/03:** Final Report on the power system separation of Iberia from Continental Europe on 24 July 2021
- **23/03:** Final Report on the local power grid incident in Rogowiec (Poland) substation on 17 May 2021
- **16/03:** Europe’s energy regulators stand with Ukraine in today’s power grid synchronisation with Continental Europe
- **17/02:** Wholesale Electricity Markets Monitoring 2021: rebound of demand, more coal, higher electricity prices and more electricity from renewables than fossil fuels
- **17/02:** Wholesale Gas Markets in 2021: rebound of demand, lower LNG imports and a high reliance on gas storage stocks
- **14/02:** Gas tariffs reports: ACER recommends that the Danish regulatory authority further assesses compliance of the tariff proposed by the TSO
- **27/01:** ACER thanks Dr Penker, former Chair of the Administrative Board, and welcomes Mr Thiollière as its new Chair
- **21/12:** Gas tariffs reports: ACER recommends Poland to further justify the proposed tariff methodologies
- **20/12:** ACER and CEER welcome the new gas decarbonisation legislative proposals with some recommendations
- **17/12:** ACER publishes the results of the monitoring of the “minimum 70% target” in the Nordic region in 2020



## 2. Items for opinion, endorsement, agreement or approval

### Revised ACER Work Programme 2022

In accordance with Article 20 of the ACER Regulation, the Draft Programming Document (PD) 2022-2024 was approved at the 97<sup>th</sup> BoR, on the basis of a provisional 2022 estimate established in line with Article 33(1)- (3) of the ACER Regulation.

**Following the adoption of the 2022 EU budget, the Draft PD 2022 – 2024 was adjusted in terms of the budget and human resources, approved by the BoR at its 104<sup>th</sup> meeting, and then submitted to the Administrative Board for adoption in December 2021.**



## ACER Recommendation on reasoned amendments to CACM Regulation

### Background

On 20 January 2021, the European Commission invited ACER to prepare reasoned recommendations for amendments to Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (CACM Regulation) in line with Article 60(3) of the Electricity Regulation. ACER was also invited to propose changes to Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation (SO) and the Balancing Regulation (EU) 2017/2195 where these are intrinsically linked with the CACM changes under consideration.

### The Recommendation

ACER proposed amendments to:

- the current market coupling governance set-up and assignment of responsibilities, to make them fit for future challenges;
- capacity calculation and bidding zone review, to deliver maximal cross-zonal capacity; and
- various amendments to the SO Regulation stemming directly from the revision of the CACM Regulation.

**No proposal for amendment/comment was received by the deadline of 8 December and the BoR issued a favourable opinion on 15 December. The recommendation was published on 20 December.**



# 2. Items for opinion, endorsement, agreement or approval

## ACER Decision on the TSOs' proposal for the congestion income distribution methodology

### Background

The CACM Regulation laid down a range of requirements for cross-zonal capacity allocation and congestion management in the day-ahead and intraday markets in electricity. In particular, pursuant to Article 73(1), all TSOs must jointly develop a methodology for distributing the congestion income among TSOs.

On 14 December 2017, ACER approved the congestion income distribution methodology (CIDM), but the go-live of the Core flow-based capacity calculation methodology planned for early 2022 and the advancement of intraday coupling require a number of amendments to the existing CIDM and on 9 July 2021, all TSOs sent ACER an amendment proposal.

### The Decision

The amendments to the methodology are mainly connected with the implementation of the Core flow-based capacity calculation methodology planned for early 2022 and progress in single intraday coupling. They:

- introduce a more advanced calculation approach for those regions applying flow-based capacity calculation,
- extend the congestion income sharing to future intraday auctions, and
- align the congestion income distribution methodology with the long-term methodology as defined by the Forward Capacity Allocation Regulation to ensure consistency across timeframes.

**No proposal for amendment/comment was received by the deadline of 8 December and the BoR issued a favourable opinion on 15 December.**



# 2. Items for opinion, endorsement, agreement or approval

## ERAA 2021

### Background

In November 2021, ACER received ENTSO-E's proposal for the first pan-European resource adequacy assessment (ERAA 2021). The purpose of the assessment is to monitor the risks to Europe's security of electricity supply and identify adequacy concerns.

### The Decision

While ERAA 2021 represents a significant improvement to its predecessor (the Mid-Term Adequacy Forecast 2020), ACER identified a number of shortcomings in the report, which compromise its accuracy and reliability. Therefore, ACER decided not to approve ERAA 2021, and provided recommendations for the ERAA 2022 (mainly concerning the scenarios, methodology, assumptions used in the assessment and the need for extensive stakeholder engagement).

**The BoR agreed to the use of the electronic procedure at its 104<sup>th</sup> meeting and issued its favourable opinion on 17 February 2022.**



# 2. Items for opinion, endorsement, agreement or approval

## ACER Opinion on ENTSOG Winter Supply Outlook 2021/22

### Background

On 12 October 2021, ENTSOG published the Winter Supply Outlook (WSO) 2021/2022 pursuant to Article 8(3)(f) of Regulation (EC) 715/2009. ENTSOG undertook an assessment of the resilience of the European gas network for the upcoming winter: based on historically observed volumes over a 10-year period, ENTSOG investigated the ability of the gas infrastructure to dispatch the necessary supply volumes to meet gas demand and to deal with high demand situations, provided that gas supply is available. ENTSOG also reviewed and published a report on the European gas supply and demand for the past Winter 2020/2021 on a voluntary basis, to provide an ex post analysis of the gas demand and supply in the previous seasons.

### The Opinion

ACER issued an opinion pursuant to Article 4(3)(b) of Regulation 2019/942 such that the WSO 2021/2022 contributes to the objectives of Regulation 2019/942 and Regulation 715/2009 in terms of non-discrimination, effective competition and the efficient and secure functioning of the internal natural gas market. The opinion also made a number of recommendations for improving the WSO assumptions and methodology.

**No proposal for amendment/comment was received by the deadline of 8 December and the BoR issued a favourable opinion on 15 December.**





# 2. Items for opinion, endorsement, agreement or approval

## ACER-CEER position on the key regulatory requirements to achieve gas decarbonisation & upcoming lines to take paper on the Gas Package

### Background

The EC proposal on the hydrogen and decarbonised gas market package was issued in mid-December 2021 and concerns the revision of the Gas Directive 2009/73 and Gas Regulation 715/2009 in line with the Green Deal ambition to decarbonise the EU gas sector and achieve climate neutrality by 2050, building on the Hydrogen and Energy System Integration strategies.

### The position paper

The ACER - CEER position paper on the EC hydrogen and decarbonised gas market package considers the core elements of market design for a decarbonised European gas market. It contains recommendations in three areas:

- Enabling gradual and flexible regulation for hydrogen
- Ensuring a level playing field in a decarbonised and integrated energy system
- Empowering and protecting consumers for the energy transition

**The BoR endorsed the position paper at its 104<sup>th</sup> meeting and the paper was published on 20 December.** ACER and CEER will further elaborate on the above recommendations in a lines to take paper to be issued in the coming months.



## 2. Items for opinion, endorsement, agreement or approval

### Appointment of AEWG Chair

As the AEWG Chair's term was nearing its end, a call for nominations was opened and the AEWG Chair reapplied for the position.

**In accordance with Article 2.2 of the ACER Working Group Rules of Procedure, the Director and the BoR jointly reappointed the AEWG Chair for a term of 2 years effective from 15 December 2021.**



## 2. Items for opinion, endorsement, agreement or approval

### **AGCE paper on enforcement method**

Following up on the compliance paper endorsed by the BoR in June 2021, the ad hoc Group on compliance and enforcement prepared a paper on enforcement methods setting out:

- a plan for setting up an efficient, coordinated, comprehensive and transparent compliance monitoring framework;
- proposals for coordinating enforcement steps; and
- suggesting trial cases.

**The BoR endorsed the paper at its 104<sup>th</sup> meeting.**



# 2. Items for opinion, endorsement, agreement or approval

## Programming Document 2023-2025

### Background

The Administrative Board adopts the Programming Document, taking into account the opinion of the European Commission, after receipt of a favourable opinion from the BoR, and after the Director has presented it to the European Parliament (Article 20 of the ACER Regulation).

**The BoR approved the Programming Document at its 105<sup>th</sup> meeting and expressed support for the provisional draft estimate of ACER revenue and expenditure for the 2023 financial year.**



## 2. Items for opinion, endorsement, agreement or approval

### ACER Decision on the amendment of the methodology for pricing balancing energy and cross-border capacity used for the exchange of balancing energy or operating the imbalance netting process

#### The background

The methodology for pricing balancing energy and cross-zonal capacity used for the exchange of balancing energy or operating the imbalance netting process in accordance with Article 30(1) of the EB Regulation (Pricing Methodology) came into effect on 24 January 2020 with ACER Decision 01/2020.

TSOs submitted their proposal for amending the Pricing Methodology with regard to the technical price limits for balancing energy, the adjustment mechanism, the report on limits and annual reporting.

#### The Decision

ACER amended the Pricing Methodology and included a transitory price limit of 15,000 €/MWh for the first 4 years of the European balancing platforms' operations, until July 2026. This is a temporary measure for mitigating possible risks in the initial phase of the European balancing platforms' go-live and to allow TSOs and market participants to gather experience on their functioning. The technical price limit of 99,999 €/MWh (ACER Decision 01/2020) remains unchanged.

**One proposal for amendment was received by the deadline of 19 January, but was not adopted by the BoR. The BoR issued its favourable opinion on the ACER Decision at its 105<sup>th</sup> meeting.**



## 2. Items for opinion, endorsement, agreement or approval

### **ACER Decision for the new System Operation Region & ACER Opinion on TCMs for LTTR implementation on FI-EE**

#### **Background**

Following an assessment pursuant to Article 30 of the Forward Capacity Allocation (FCA) Regulation, the Finish and Estonian NRAs decided to introduce long-term transmission rights (LTTRs) on the FI-EE bidding zone border (BZB) of the Baltic CCR in June to address the insufficient hedging opportunities for market participants in the Baltics.

On 11 November, ACER received a request for an opinion on the required terms and conditions and methodologies and related processes for their approval.

#### **The Opinion**

The ACER Opinion clarifies open questions related to the approval process for terms and conditions or methodologies and clarifies requirements on the splitting of long-term cross-zonal capacity.

**No proposal for comment/amendment was received by the deadline of 23 February, and the BoR issued a favourable opinion at its 106<sup>th</sup> meeting.**



## 2. Items for opinion, endorsement, agreement or approval

### Appointment of the BoR Review Panel

According to the Agency's Policy for the prevention and management of conflicts of interest, members and alternates of the Board of Regulators, Agency Working Group Chairs and Vice-Chairs, and Task Force Convenors are required to submit their Declarations of Interests and CV by 31 January of each year. In line with this Policy, the Dols and CVs are published on the Agency's website. The documents are then assessed by a Review Panel.

**At its 105<sup>th</sup> meeting, the BoR agreed to the composition of the Review Panel comprising the BoR Chair, BoR Vice-Chair and Mr Hierzig (with the Director of the Agency acting as observer and Mr Bos acting as alternate to the three panel members where their declaration is considered).**



## 2. Items for opinion, endorsement, agreement or approval

### ACER Decision on the amendment of the Core intraday capacity calculation methodology (ID CCM)

The Core NRAs referred the proposed amendment of the Core ID CCM to ACER on 8 February. The ACER decision has to be issued as a matter of urgency because of the strong interdependency between the go-live date of the Core Day-ahead CCM in April 2022 and the approval and implementation of the first amendment to the Core ID CCM.

**Given the urgency, members agreed to the use of the electronic procedure at the 106<sup>th</sup> BoR meeting. During the first round, 3 proposals for amendments were tabled, all of which were adopted in the second round. The final round for the BoR favourable opinion is ongoing and ends on 13 April.**





# 2. Items for opinion, endorsement, agreement or approval

## ACER Decision on System Operation Regions

### Background

On 4 June 2020, ENTSO-E introduced an appeal before the Board of Appeal against ACER Decision 10/2020 of 6 April 2020 on the definition of system operation regions (SORs), which represents the first step towards the establishment of Regional Coordination Centres. In September 2020, the Board of Appeal decided to remit the case to the Director due to insufficient reasoning.

Decision 08/2021 of 29 June 2021 replaced Decision 10/2020, which was also appealed (case A-012-2021) and subsequently withdrawn for procedural reasons.

### The Decision

With this Decision, ACER added further reasoning to its amendments and revised the definition of SORs, taking into account the impact of UK's withdrawal from the EU. ACER also decided to maintain South-West Europe as a separate SOR, as proposed by ENTSO-E.

**No proposal for amendment/comment was received by the 30 March deadline, and the BoR issued a favourable opinion at its 107<sup>th</sup> meeting.**



# 2. Items for opinion, endorsement, agreement or approval

## ACER Opinion on ENTSO-E Research, Development & Innovation Implementation Report

### Background

On 8 February 2022, ENTSO-E submitted its Research, Development & Innovation (RDI) Implementation Report 2021-2025 to ACER. The document identifies 13 RDI project concepts for TSOs to be deployed to deliver the targets of the ENTSO-E RDI Roadmap 2020-2030.

### The Opinion

The opinion contains a number of recommendations, such as:

- linking the Report's objectives and the broader scoped RDI Roadmap 2020-2030 with the TSOs' core tasks;
- treating the budget estimates as indeterminable, or improving their transparency; and
- the need for a stronger commitment of TSOs towards achieving the projects' specific goals or where delegation is not possible, facilitating interactions with stakeholders e.g. via a cooperation platform.

**No proposal for amendment/comment was received by the 30 March deadline, and the BoR issued a favourable opinion at its 107<sup>th</sup> meeting.**



# 3. Regulators' role in addressing the energy crisis

On 13 October, the European Commission adopted a Communication on Energy Prices, which included a “toolbox” that the EU and its Member States can use to address the immediate impact of high energy prices. The EC subsequently issued additional Communications on:

- security of supply and affordable prices (23 March 2022), presenting further exceptional short-term options to temper price spikes;
- REPower EU (8 March 2022), proposing to diversify gas supplies, speed up the roll-out of renewable gases and replace gas in heating and power generation, thereby reducing EU demand for Russian gas; and
- a proposal for a Regulation (23 March 2022) introducing a minimum 80% gas storage level obligation for next winter to ensure security of energy supply, rising to 90% for the following years.

Against that background, BoR members exchanged on the following topics at the 107<sup>th</sup> BoR:

- High energy prices and security of supply in the EU
  - Gas flows stable but prices extremely high, spilling over to electricity prices.
  - Measures to address situation (price caps, limiting volatility on exchanges).
  - Effects on market participants (solvency, TSO credit lines).
  - Effects on consumers (industrial/households).
  - Need for enhanced market monitoring (early warning SoS, REMIT).
  - Measures to ensure sufficient gas next winter (80% storage, Summer-Winter spread, burden sharing).



# 3. Regulators' role in addressing the energy crisis

- Dependence on Russian gas
  - Effects of extremely high gas prices on financial flows to Russia.
  - Track payments and specify drivers.
  - How to deal with Russian market participants.
- Ensuring energy for Ukraine
  - Council conclusions: 'The European Union is committed to ensuring continuous and uninterrupted electricity and gas flows to Ukraine.
  - Electricity: synchronisation with continental Europe; cost uncertainty.
  - Gas: reverse flows into Ukraine; gas storages in or close to Ukraine.



# 3. High energy prices

## ACER April assessment

In its Communication on Energy Prices dated 13 October 2021, the European Commission tasked ACER to assess the benefits and drawbacks of the current wholesale electricity market design, among others its capacity to address situations of extreme price volatility in the gas markets and available measures to reduce such situations, while ensuring a cost effective transition towards a net zero energy system, and to propose recommendations by April 2022, which the Commission will assess for follow-up as appropriate.

ACER issued its preliminary assessment of the situation in the electricity market on 15 November 2021, complementing the note of 13 October with analysis on: the relatively uneven electricity price impacts across Member States; the impact of the move towards more spot pricing of gas in Europe and how this relates to price volatility issues going forward; and the key characteristics of the current electricity market design and alternative market design approaches.

At the 107<sup>th</sup> BoR, members discussed the April assessment in its draft form, which further considers: the current situation and market design, the way forward in terms of wholesale electricity market design, a series of factors affecting wholesale electricity markets (gas dependency and price volatility) and considerations relating to retail markets, suppliers and consumers.

The electronic procedure for the endorsement of the April assessment is ongoing and ACER will formally submit the April assessment to the European Commission on 29 April.



## NC Emergency and Restoration Implementation Monitoring Report

Article 32(1) of Regulation (EU) 943/2019 requires ACER to monitor and analyse the implementation of the Network Codes and the Guidelines adopted by the European Commission. Furthermore, ACER shall monitor their effect on the harmonisation of applicable rules aimed at facilitating market integration, as well as on non-discrimination, effective competition and the effective functioning of the market, and report to the European Commission.

The first Emergency and Restoration Implementation Monitoring Report was discussed at the 104<sup>th</sup> BoR and published on 22 December 2021.

The Report presents progress made towards the implementation of Commission Regulation (EU) 2017/2196 of 24 November 2017 establishing a Network Code on Electricity Emergency and Restoration (NC ER). ACER found that while implementation of the electricity grid emergency and restoration rules is well on track, there is still not a complete and uniform EU-wide implementation of this legally binding Network Code.



## ACER-CEER paper on offshore renewable energy

Europe's energy regulators, represented by ACER and the Council of European Energy Regulators (CEER), welcome the European Commission's Strategy to harness the potential of offshore renewable energy for a climate-neutral future.

In their Reflection Paper published on 11 April 2022, ACER and CEER broadly support the European Commission's envisaged approach towards creating offshore bidding zones (OBZs) to integrate offshore renewable energy from hybrid systems into the EU electricity market. At the same time, ACER and CEER believe further consideration would be beneficial for the implementation of the offshore bidding zone model.

There remain several challenges, among which is the need to provide a stable investment framework for offshore renewables. ACER and CEER have concerns about the proposal to allocate congestion income to offshore renewable energy sources, or to exempt hybrid interconnectors from the requirement to make 70% of capacity available for cross-zonal trading (which would imply re-introducing priority dispatch).

ACER and CEER advocate refraining from exemptions from the general EU energy market rules. Instead, regulators propose less disruptive solutions such as market-oriented support schemes and/or seeking higher guarantees in terms of interconnection capacity availability.

In addition, ACER and CEER fully support integrated network development and planning for offshore networks, as well as harmonisation of connection and operation rules to facilitate the deployment of hybrid systems.



## Outcome of the survey on methodological aspects of 70% monitoring and minimum set of charts

It was agreed at the 104<sup>th</sup> BoR meeting that ACER and NRAs will harmonise, to the extent possible, the monitoring of the margin available for cross-zonal electricity trade in the EU.

Alignment was subsequently sought as regards:

- methodological principles;
- charts to be included in the reports; and
- a common period for publishing reports.

ACER will issue a practical note summarising the common approach on the above, so that stakeholders understand how the 70% monitoring will be performed in the Member States.





## ACER Opinions on reverse flows (SI-AT, HU-AT)

On 2 and 5 November 2021, ACER received the decisions taken by E-Control and AGEN-RS in the context of proceedings to review the exemption from the obligation to enable bi-directional capacity at the Murfeld/Ceršak cross-border interconnection point between Austria and Slovenia in accordance with Article 5(4) and point 2 of Annex III to Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply (the SoS Regulation).

On 2 and 3 November 2021, ACER also received decisions issued by MEKH and E-Control in the proceedings to review the exemption from the obligation to enable bi-directional capacity at the Mosonmagyaróvár (Hungary to Austria) interconnection point.

On 3 February 2022, ACER issued opinions on the above decisions in light of Article 5 and Annex III to the SoS Regulation, and submitted them to the European Commission along with the competent authorities and the national regulatory authorities referred to in points 3 and 6 of Annex III to the SoS Regulation.

ACER agrees that there is no need to increase the capacity from Hungary to Austria at the Mosonmagyaróvár IP (although ACER is not convinced that the cumulative conditions indicated in the TSOs' proposal could qualify as permanent physical bi-directional capacity), and from Slovenia to Austria at the Murfeld/Ceršak interconnection point, under the current circumstances.



## Report on Gas Storage Regulation and Indicators

Following a discussion at the 107<sup>th</sup> BoR, ACER published the Report on Gas Storage Regulation and Indicators on 7 April 2022.

The European Commission's REPowerEU communication (March 2022) highlights the need to be prepared for a possible interruption of gas supply. Gas storage plays an important role for ensuring continuity of gas supply. More recently, the European Commission tabled a legislative proposal introducing a minimum of 80% gas storage level obligation by 1 November for next winter, rising to 90% for the following years. EU leaders will discuss and decide on the approach to refill Europe's storage facilities.

The ACER report sets out the current storage situation across the EU and is based on information provided by the NRAs.



## ACER Decision on Single Intraday Coupling (SIDC) data collection under REMIT

In early July, ACER sent the SIDC Nominated Electricity Market Operators (NEMOs) an official letter requesting the submission of SIDC data pursuant Article 6(8) of REMIT Implementing Regulation. The information is needed for the reconstruction of the trading activity on the Shared Order Book in the SIDC market, to allow ACER to fully comply with its mandate of monitoring the wholesale energy markets pursuant to Article 7 of REMIT.

As the SIDC NEMOs rejected the above request, ACER issued Decision 01/2022 of 31 January 2022 requesting the said SIDC data pursuant to Article 3(2) of the ACER Regulation.

