An aerial photograph of a power line tower in a field. The tower is a lattice structure, and power lines extend from it across the landscape. The field is a mix of brown and green, suggesting different crops or stages of growth. The sky is not visible, as the image is a top-down view.

ACER 

European Union Agency for the Cooperation
of Energy Regulators

ACER update to the ECRB

Covering BoRs 96-98

Dennis Hesseling, ACER representative to the ECRB

14 April 2021, virtual

1. Updates

2. Items for BoR opinion, approval, or agreement

3. Electricity

4. Gas

5. Market Integrity and Transparency & Surveillance and Conduct

6. Retail



Latest publications

- **14/12:** ACER to decide on the electricity fallback procedures in 13 EU Member States
- **11/12:** ACER and ENTSOG publish two solutions on the Functionality Platform related to the two issues "Missing harmonisation of interfaces on capacity platforms" and "Allowance of over-nomination in the event of capacity platform failure outside working hours"
- **10/12:** ACER Monitoring Report on the Implementation of the Network Code on Requirements for Generators
- **8/12:** Electricity Regulatory Forum: ACER welcomes discussion on the relevance of the Clean Energy Package implementation
- **8/12:** ACER adopted five Decisions fostering the integration of the European electricity networks and markets, marking a milestone in securing the electricity network operation in Central and South East Europe and setting up an effective and cost efficient coordination for remedial actions.
- **4/12:** ACER decides on a common methodology for splitting long-term cross-zonal electricity capacity in three Member States
- **2/12:** Cost of electricity losses driving significant increase in Inter-TSO compensation fund which now reaches 289 million euros
- **26/11:** ACER to decide on the definition of capacity calculation regions
- **26/11:** ACER decides methodology for electricity bidding zone review and will evaluate alternative configurations
- **19/11:** ACER grants Continental Europe's regulatory authorities an extension to decide on additional properties for frequency containment reserves
- **18/11:** ACER rejects the long-term capacity calculation methodology for the Baltic Capacity Calculation Region



2. Items for opinion, endorsement, agreement or approval

ACER Decision on cross-border participation in CMs

Background

The Electricity Regulation requires Member States to open their capacity mechanisms (CMs) to direct cross-border participation of capacity providers located in other Member States.

Article 26 of the Electricity Regulation provides the legal framework for enabling capacity providers located in one EU Member State to participate in CMs of other Member States, and mandates ENTSO-E to further develop technical specifications for direct cross-border participation in CMs in accordance with Article 26(11). ENTSO-E submitted the technical specifications to ACER on 3 July 2020.

The Decision

ACER proposes to approve the technical specifications as set out in Annex I to the Decision. The AEWG advice was circulated.

By the deadline of 9 December, one proposal for amendment was submitted.

The BoR was invited firstly to vote on the proposal for amendment included in the voting list and secondly, to provide its favourable opinion through e-voting.



2. Items for opinion, endorsement, agreement or approval

ACER Decision on DA products

Background

On 24 June 2020, all nominated electricity market operators (NEMOs) submitted a proposal to ACER to amend the products that can be taken into account in single day-ahead coupling (SDAC) in accordance with Article 9(13) of **Commission Regulation 2015/1222 on capacity allocation and congestion management (CACM)**. The deadline for the ACER decision was 24 December 2020.

The Decision

The Decision approves the proposal subject to some amendments. **The AEWG advice was circulated.**

No proposal for comment/amendment was submitted by the deadline of 9 December.

The BoR was invited to provide its favourable opinion through e-voting.



2. Items for opinion, endorsement, agreement or approval

ACER Opinion on ENTSOG's Work Programme 2021

Background

On 18 September 2020, the European Network of Transmission System Operators for Gas (ENTSOG) submitted its draft Annual Work Programme 2021 to ACER for opinion.

Pursuant to Article 4(3)(b) of Regulation (EU) 2019/942 and Article 9(2) of Regulation (EC) 715/2009, the draft Annual Work Programme may be evaluated by ACER taking into account the objectives of non-discrimination, effective competition and the efficient functioning of the market.

The Opinion

The Opinion and the AGWG advice have been circulated. ACER finds that the draft Annual Work Programme 2021 meets the above objectives, but calls on ENTSOG to adapt it inter alia to highlight critically important work areas and deliverables, and indicate potential risks that some of them may not be achieved, and any risk mitigation measures.

No proposal for comment/amendment was submitted by the deadline of 9 December.

The BoR was invited to provide its favourable opinion through e-voting.



ACER Decision on the methodology for the use of congestion income

Background

Article 19 of the Electricity Regulation (EU) 2019/943 establishes rules for the use of congestion income generated by congestion management procedures. Article 19(2) of the same identifies priority objectives for the use of congestion income and where the priority objectives have been adequately fulfilled, the congestion income may be used for calculating network tariffs.

Pursuant to Article 19(4) of the Electricity Regulation, TSOs shall propose a methodology for the use of income in accordance with the objectives laid down in Article 19(2) of that Regulation (the UCI Methodology), after consulting regulatory authorities and relevant stakeholders. The TSOs' proposal was submitted to ACER on 3 July 2020 and ACER must issue its decision by 3 January 2021.

The Decision

The Decision states that the TSOs' proposal is in line with the requirements of the Electricity Regulation. The AEWG advice was circulated.

No proposal for comment/amendment was submitted by the deadline of 9 December.

The BoR was invited to provide its favourable opinion through e-voting.



2. Items for opinion, endorsement, agreement or approval

ACER Recommendation on NRAs' activities and reporting on the use of congestion income

Background

Article 19 of the Electricity Regulation (EU) 2019/943 establishes rules for the use of congestion income generated by the congestion management procedures.

According to Article 19(5) of the Electricity Regulation, every year NRAs shall inform ACER and publish a report on the amounts and use of congestion income.

The Recommendation

For congestion income to be collected in 2022, the draft recommendation provides guidance to NRAs to harmonise and streamline their reporting obligations. The AEWG advice was circulated.

No proposal for comment/amendment was submitted by the deadline of 9 December.

The BoR was invited to provide its favourable opinion through e-voting.



2. Items for opinion, endorsement, agreement or approval

Report on distribution tariff methodologies in Europe

Background

Article 18(9) of Regulation (EU) 2019/943 requires ACER to provide and update, at least every two years, a best practice report on distribution tariff methodologies, while taking account of national specificities. NRAs take this report into account when fixing or approving distribution tariffs or their methodologies.

The circulated report complements the 2019 ACER report on practices regarding transmission tariff methodologies and provides a status review of distribution tariff structures across the 27 EU Member States. The AEWG advice has also been circulated.

BoR opinion

No proposal for amendment was received by the deadline of 20 January.

The BoR was invited to provide its favourable opinion through e-voting.



2. Items for opinion, endorsement, agreement or approval

Policy paper on balancing misconduct in European Gas Markets

According to recital (11) of the Network Code on Gas Balancing of Transmission Networks (BAL NC), “National regulatory authorities and transmission system operators should have regard to best practices and endeavours to harmonise processes for the implementation of this Regulation.”

In 2016, 2018 and 2019, TSOs and Market Area Managers (MAMs) reported a series of network user misconduct: network users created substantial imbalances, for which they were charged but which they left unpaid. Following discussions involving ACER and ENTSOG together with the affected TSOs, MAMs and NRAs, ACER and ENTSOG have formulated joint recommendations relating to good practices for ex ante monitoring checks on balancing and creditworthiness, cross-border exchange of information, good practices currently implemented for proactive measures and possibility for reactive measures in case of balancing misconduct identified in another Member State.

The BoR was invited to endorse the policy paper on balancing misconduct in European Gas Markets.

Once endorsed by the BoR and the ENTSOG Board, the paper was published and submitted to the European Commission.



White paper on the regulatory treatment of power-to-X facilities

The ACER-CEER White Paper on the regulatory treatment of power-to-gas (P2G) builds on the ACER/CEER Bridge Beyond 2025 Conclusions Paper and focuses on the link between the electricity and gas sectors.

Overview of regulator's key recommendations:

1. Revisit the current set of definitions for major activities in the context of integrated gas and electricity sectors
2. Consider investment and management of power-to-gas installations as market-based activities which are open to competition among market players
3. Allow involvement of system operators in the development and operation of power-to-gas installations, only in exceptional cases
4. Include power-to-gas installations and their suitable locations in system needs analysis
5. Define cost-reflective network tariffs, which should be applied to comparable activities across electricity and gas sector in a technologically-neutral way
6. Avoid distortive effects of taxes and levies on the integrated energy system

The BoR was invited to endorse the paper, which was subsequently published.



2. Items for opinion, endorsement, agreement or approval

White paper on Hydrogen Networks

The ACER-CEER White Paper entitled “When and how to regulate hydrogen networks?” provides views on the possible need for, and scope of, European regulation of hydrogen networks, addressing issues such as how to treat existing hydrogen network infrastructure, and how to address regulatory challenges relating to the repurposing of gas infrastructure for dedicated hydrogen transport.

Overview of regulator’s key recommendations:

1. The need and scope of regulation of hydrogen networks will depend on their structure and their evolution
2. Temporary regulatory exemption should be foreseen for existing and new hydrogen infrastructure developed as business-to-business networks
3. The value of repurposing of gas assets for the transport of hydrogen should be assessed

Following endorsement by the AGWG, the BoR was invited to endorse the paper, which was subsequently published.



2. Items for opinion, endorsement, agreement or approval

ACER opinion on ENTSO-E WO

The ENTSO-E WO 2020/21 published on 30 November 2020 does not report significant adequacy risks in Europe this winter: whilst potential adequacy concerns in Denmark, Finland, France and Malta were identified, most of these risks can be addressed with available non-market resources. The COVID-19 pandemic is also expected to reduce demand throughout Europe.

ACER was preparing an opinion on the WO, which is expected to be submitted for AEWG advice around the end of the month, and thereafter **submitted for BoR favourable opinion via an electronic procedure. Members were invited to agree to the use of the electronic procedure for that purpose.**



2. Items for opinion, endorsement, agreement or approval

ACER Decision on Core fallback procedures

Background

Commission Regulation 2015/1222 (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. These requirements include specific provisions for the establishment of fallback procedures in accordance with Article 44 of the CACM Regulation.

The Core TSOs' request for amendment to the Core Fallback Procedures was referred to ACER in December 2020. The deadline for the decision is 4 June 2021.

The Decision

The draft decision and accompanying Annexes I (revised fallback procedures) and II (Shadow Allocation Rules) were submitted for BoR favourable opinion. The AEWG advice was circulated.

As no proposal for comment/amendment was received by the deadline of 10 March, **the BoR was invited to provide its favourable opinion through e-voting.**



2. Items for opinion, endorsement, agreement or approval

ACER Opinion on ENTSO-E's Articles of Association

On 26 February 2021, ENTSO-E submitted a new version of their Articles of Association, on which ACER will issue an opinion in accordance with Article 4(1) of the ACER Regulation 2019/942 and Article 29 of the Electricity Regulation 2019/943.

To make the deadline of 25 April 2021, an electronic procedure must be launched around 7 April, after consulting stakeholders and seeking the AEWG advice. **To that end, members were asked to agree to the use of the electronic procedure.**



2. Items for opinion, endorsement, agreement or approval

Revised ACER Programming Document 2021

Pursuant to Article 20 of the ACER Regulation, the 88th BoR provided its favourable opinion and approved the Agency's Draft Programming Document (PD) 2021 – 2023 in January, on the basis of the provisional 2021 estimate established in accordance with Article 33(1)- (3) of the ACER Regulation.

Pending the adoption of the definitive 2021 EU budget, the Draft PD 2021 – 2023 has been adjusted in terms of the budget and human resources in line with the Commission's proposal and is due for adoption by 31 December 2020.

The strategic objectives of the PD remain those described in the draft version adopted by the AB in January. The amendments introduced in the current draft are detailed in the circulated cover note.

The revised Draft PD 2021-2023 was **submitted to the BoR for favourable opinion/approval** prior to its adoption by the AB.



2. Items for opinion, endorsement, agreement or approval

ACER Draft Programming Document 2022

Article 20(1) of the ACER Regulation provides that each year, the Director shall prepare a draft programming document containing annual and multi-annual programming, and submit it to the Administrative Board (AB) and to the BoR. The AB adopts the draft programming document following receipt of a BoR favourable opinion, and submits it to the European Parliament, to the Council and to the Commission no later than 31 January.

Pursuant to Article 22(5)(d) of the ACER Regulation, the BoR shall approve the programming document in accordance with Article 20(1).

The BoR was invited to approve/provide its favourable opinion on the PD 2022-2024 prior to its adoption by the AB.

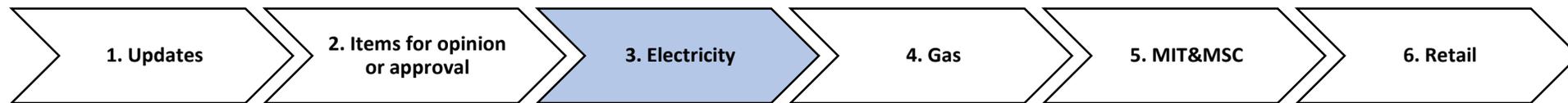


2nd Implementation Monitoring Report (IMR) on the NC on Demand Connection and of the NC on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules (DCC/HVDC IMR)

Article 32(1) of Regulation 943/2019 requires the Agency to monitor and analyse the implementation of Network Codes and Guidelines adopted by the European Commission. Furthermore, the Agency 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 EC.

The 2nd DCC/HVDC IMR presents progress towards the implementation of two network codes: the network codes on demand connection and on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules. The IMR also sets out recommendations for concrete actions and best practices to promote efficient implementation.

The report was presented **for information**. Its publication was planned for January 2021.



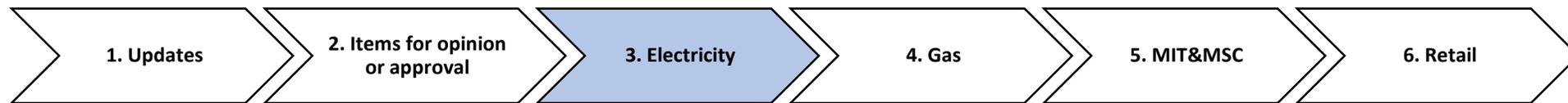
Letter on the ENTSO-E 2021 Work Programme

On 21 October 2020, ENTSO-E submitted its Annual Work Programme 2021 to the Agency for opinion pursuant to Article 32(2) of Regulation (EU) No 2019/943.

The Annual Work Programme 2021 presents the activities which ENTSO-E plans for 2021. It describes inter alia the System Operations tasks, explains the Markets tasks, the System Development tasks, details the work on the Transparency Regulation, describes the Research & Development tasks, and tasks regarding TSO-DSO cooperation and Demand Side Flexibility.

A letter from ACER to ENTSO-E was circulated for information. The letter states that:

- The Agency considers that the ENTSO-E Annual Work Programme for 2021 is in line with the requirements of Article 30(4) of Regulation (EU) 2019/943 and complies with the relevant provisions of Regulation (EU) 2019/943.
- The Agency did not identify elements that would suggest negative effects on non-discrimination, effective competition, efficient and secure functioning of the market, or the sufficient level of cross-border interconnection open to third party access.
- Therefore, the Agency does not intend to issue an opinion on the Annual Work Programme 2021.



ACER Opinion on consistency of NDPs and the TYNDP

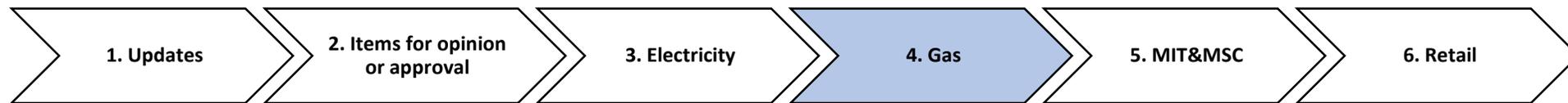
The ACER Opinion on the consistency of gas national development plans (NDPs) and the EU ten-year network development plan (TYNDP) was circulated **for information**.

In accordance with Article 8(11) of Regulation 715/2009, the opinion reviews the most recent gas NDPs across Europe to assess:

- their consistency with the draft EU TYNDP 2020, covering individual projects as well as methodological aspects, and analysing their evolution since 2018 when the previous survey was carried out; and
- the integration of Energy Transition goals into the gas network development processes.

The opinion welcomes improvements to the transparency of the EU TYNDP, but notes a falling level of project consistency between NDPs and the present draft EU TYNDP 2020 due to the inclusion in the EU TYNDP 2020 of energy transition projects, which are not part of most recent NDPs.

The opinion also sets out recommendations to improve the consistency of NDPs with the EU TYNDP, and recommendations addressed to ENTSOG and project promoters to improve the consistency of future EY TYNDPs with NDPs.

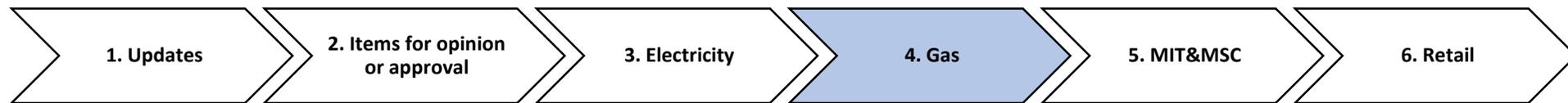


Revision TEN-E Regulation

On March 5, ACER – CEER published their Position Paper on Improving the Regulation on Guidelines for Trans-European Energy Networks (TEN-E).

Since then, ACER has reached out and offered technical support in the form of amendment proposals (based on the position paper) to MEPs and Member States

Currently, the draft EP report and the Council proposal are quite far apart on key governance aspects (CBA methodology, Scenario development, Offshore wind, CBCA process)



5. Implementation of REMIT fees collection

Fee Collection Process

ACER identifies total eligible costs in Programming Document to be adopted each December.

ACER calculates fee for each registered reporting mechanism (RRM), based on:

- A flat enrolment fee
- A transactions records-based fee

Should the sum of all fees be higher than the total eligible costs, then individual fees are reduced pro-rata.

ACER sends out invoices in January of each year.

- In 2021, 31 March 2021 is the earliest due deadline ACER can set for the payment of the invoices.
- RRM's who inform ACER at the latest by 31 March 2021 that they no longer want to be registered by ACER do not have to pay the fee.



6. First ARWG meeting

- 1st introductory meeting on 18 February 2021 (44 participants).
- AB Decision establishing the ARWG and ACER's Internal RoP for the Functioning of the WGs distributed.
- MMR TF has been set up. TF convenors are Seamus Cathal Byrne (ACER) and Deniz Erdem (BNetzA).

2020 ACER CEER Market Monitoring Report (MMR), Energy Retail and Consumer Rights Volume

The following documents were presented:

- Report outline, describing the structure, topics and type of analyses envisaged;
- Project timeline;
- Consumer Protection & Empowerment indicators, electricity & gas;
- Retail markets indicators, electricity & gas.

Drafting is a shared responsibility, ACER will coordinate the drafting of the document in order to maintain consistency with other volumes of the MMR.

