Does ACER need a refit?
- a critical view

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Member ACER Board of Appeal,
Former Chair ACER Gas Working Group
So far ACER’s purpose is limited*

- Assist NRAs in order to fulfil their tasks at EU level.
- Co-ordination of NRA action if necessary.
- Only a few selected direct decisions.

* According to Third Energy Package
“Within” ACER four bodies prepare & decide

<table>
<thead>
<tr>
<th>Director</th>
<th>Board of Regulators</th>
<th>Administrative Board</th>
<th>Board of Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heads ACER.</td>
<td>1 member (+1 alternate) per NRA.</td>
<td>9 members – 5 Council, 2 COM &amp; EP.</td>
<td>6 members, 6 alternates, 1 registrar.</td>
</tr>
<tr>
<td>Appointed by AB after favourable BoR opinion.</td>
<td>1 COM (non-voting) member.</td>
<td>Administrative tasks.</td>
<td>Independent from ACER.</td>
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<td></td>
<td>1 vote per MS.</td>
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</table>
ACER ‘suffers‘ from a limited budget & growing operational responsibility

• 100 % EU funded.
  • 2017: 13,3 Mio. EUR.
• Leaked Winter Package version included financial contribution by TSOs/ENTSOs.
• ACER would like to raise money from regulated entities.
• Support from NRAs (via seconded national experts) is diminishing (2016: 6.5 FTEs).
• In general the support of NRAs is on average 8.81% of the overall NRAs resources.
• Frequent imbalance between additional tasks & constant budget (e.g. REMIT, EIP)
• Prioritization needed → requires flexibility!

Differentiated assessment of ACER’s performance so far

• Gas sector is more successful regarding network code processes & therefore implementation of the Third Energy Package.
  • NCs typically provide a practical solution to an issue.
  • Whether “more” is needed, will be answered with the EC ‘Quo Vadis’ study.
• Issues concerning electricity are often seen as ENTSO-E & not ACER issues.
  • NCs are rather process oriented & will require significant EU/regional co-ordination (by ENTSO-E & ACER).
• Co-ordination of NRAs so far not seen as satisfactory. → Why?
• Sometimes difficulties to agree within BoR.
• ACER has views but is not seen as “mediator” b/w NRAs with strong technical expertise & arguments on options. ACER rather develops its own views.
• Without NRA resources ACER could currently not fully deliver it’s tasks.
• In general ACER is perceived positive by COM & a majority of NRAs.
Current energy topics cover a wide(r) spectrum

• Climate & energy policy goals.
• Renewable (intermitted) energy sources.
• Energy Efficiency.
• Market integration.
• Integration of energy (sub-) sectors (heating/cooling, transport, electricity, gas).
• Security of Supply.
• New technologies (e.g. Power-X).
• End-consumer empowerment.
• Governance (ACER as well as integrated energy plans).
• Network development.
But who is the competent authority?

<table>
<thead>
<tr>
<th>Topic</th>
<th>Member State</th>
<th>NRA</th>
<th>ACER</th>
<th>COM</th>
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<tbody>
<tr>
<td>Climate &amp; energy policy goals.</td>
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<td>Renewable (intermitted) energy sources.</td>
<td>x</td>
<td>(x)</td>
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A successful Energy Union requires an integrated decision making process

The current, rather arbitrary split of decision making between EU entities complicates achieving energy policy goals.

- Integrated market vs. national CRMs.
- National RES support vs. coordinated network expansion needs.
- What role will EU wide electricity trading play if price signals cannot reach RES generators & if there are (almost) no fossil generators left “in the market”? 
- Nationally decided energy mix vs. integrated market.
- National efficiency measures with little coordination with RES, ETH, etc.
- Etc. etc.

ACER could be given the tools to support this integrated decision making.
As we are moving towards an internal market decision making will need to follow

However, several conditions need to be met in order to allow ACER to make those decisions (itself)

• Sufficiently broad competencies to deal with topics.
• Sufficient financial & human resources (e.g. at least 3 technical experts on any relevant topic to enable high quality decision preparations).
• Technical, economical as well as legal expertise to deal with the relevant issues.
• Balanced and legally sound rules of procedure in place.
• Checks & balances in order to avoid ‘arbitrary decisions’.
• Confidence on ACERs processes & impartiality by vast majority of effected parties.

ACER still has some work to do before it can fill this role successfully.
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