

CEER

**Council of European
Energy Regulators**

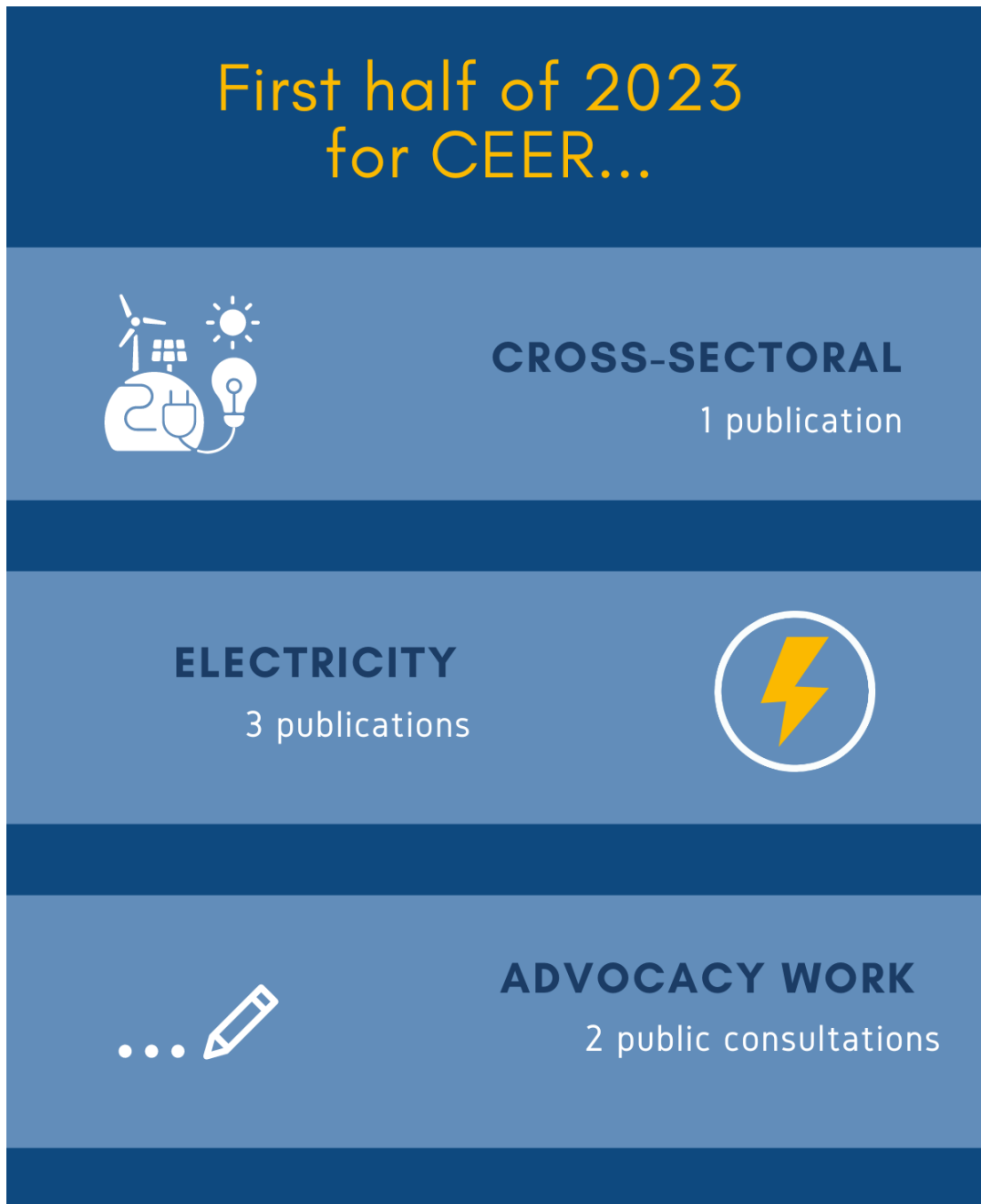


Fostering energy markets, empowering consumers.

What Regulators Stood for in the First Half of 2023

European Policy Unit

12 July 2023



The introductory part of this review is dedicated to CEER's main messages for the energy sector in the first half of 2023. These messages align with our [overall strategy](#), which guides CEER deliverables and activities throughout the defined period of the strategy.

Cross-sectoral

- Robust regulatory frameworks are essential for the development of energy markets. They promote confidence in market mechanisms and are central to ensuring a level playing field with sound investment signals for the sector.

Electricity

- Storage facilities could provide increasingly important services on the distribution network. The preferred option is that these services are offered by storage systems owned by market parties, as is reflected in Article 36 of the Electricity Directive, which generally prohibits DSOs from owning, developing, managing or operating storage systems. If services needed by DSOs to fulfil their legal obligations are not offered by privately owned storage systems by the market, an alternative could be DSO owned energy storage.
- NRAs need to carefully consider the regulatory choices regarding alternative connection agreements, both at their introduction and over time.
- European energy regulators advocate that decarbonisation should be done at least cost. It is, therefore, also important that the deployment of renewable energy sources (RES) be achieved at the lowest possible cost to society. Market-based mechanisms, notably competitive tendering procedures, have often proven to be a successful instrument for reducing RES support costs.

1 CEER work on cross-sectoral issues

Since January 2023, CEER has published **1 document**, which is cross-sectoral and its aim and conclusions target electricity, gas and customer sectors.

CEER Report on Regulatory Frameworks for European Energy Networks 2022¹

This report provides a general overview of the regulatory regimes applied in 2022 and the required efficiency developments. It also analyses the overall determination of capital costs of CEER Members plus Northern Ireland and five Energy Community Regulatory Board (ECRB) Members, four of whom are also CEER Observers. At the same time, the report serves as a background paper for the CEER's work on incentives, both in quantitative and qualitative terms.

The switch from conventional to renewable energy sources, a growing cooperation between (and inside) European energy networks, and the integration of smart elements into the networks can be seen as the next challenges for network operators, but also for the national authorities.

Main findings:

- The report shows that different countries have different characteristics in their respective regulatory systems. But there are also many parallels between the regulatory regimes that can be identified.
- For the method of asset valuation, the weighted average cost of capital (WACC) is the preferred method by many NRAs. Whereas the real WACC is used for profitability calculations for re-valuated assets, the nominal WACC is used for calculating historical values of assets.
- According to the survey data, almost all NRAs include fixed assets in the regulatory asset base (RAB).
- In contrast, with respect to working capital, more than half of NRAs do not include working capital in the RAB, or use a derived notion of that working capital, depending on whether the electricity or gas system operator is considered.
- Fewer than half of the NRAs surveyed include assets under construction in the RAB.
- In gas and electricity regulation, straight-line depreciation is applied by most NRAs. The surveyed NRAs use different depreciation values, with the majority using the historical values in different variations.
- The switch from conventional to renewable energy sources, a growing cooperation between (and inside) European energy networks, and the integration of smart elements into the networks can be seen as the next challenges for network operators, but also for the national authorities.

¹ [CEER Report on Regulatory Frameworks for European Energy Networks 2022](#)

2 CEER work on electricity regulatory issues

In the first half of 2023, CEER published **3 documents** which relate to electricity issues.

CEER Report on Tendering Procedures for Renewable Energy Sources in Europe²

CEER report presents the current state of play on renewable energy sources (RES) tendering schemes in Europe. It provides a comprehensive overview of the various competitive bidding procedures in place for determining the level of support for RES in CEER member countries. Assessments of schemes in selected countries complement the report.

RES support systems based on tendering schemes still seem to be more vulnerable to outside influences such as permit granting systems and zoning or more generally, aspects that influence the number of potential participants and the risk level.

Main findings:

- By the beginning of 2022, the large majority of CEER Members have implemented tenders as a means for determining the level of financial support for RES technologies in a competitive manner.
- Realisation rates are still outstanding, as most realisation periods are still running. The first results are encouraging for photovoltaic (PV) projects. Overall, the results differ from country to country and from tender to tender.
- RES support systems based on tendering schemes still seem more vulnerable to outside influences such as permit granting systems and zoning or, more generally, aspects that influence the number of potential participants and the risk level.
- Tenders, as a market-based instrument for determining the level of RES support, are starting to slowly converge in general terms with newly introduced schemes.

CEER Paper on Alternative Connection Agreements³

NRAs need to carefully assess the interaction between alternative connection agreements and other, especially market-based, mechanisms for DSOs to access flexibility when considering their implementation.

The issue of electricity network congestion is increasingly prevalent within many European electricity distribution networks. As an alternative or intermediary measure before grid reinforcements, distribution system operators (DSOs) can procure flexibility via various methods to solve local network issues.

This paper focuses on one of these methods: alternative [flexible] connection agreements. It shows how these agreements can take many forms and are already employed by DSOs within Europe to varying degrees.

² [CEER Report on Tendering Procedures for Renewable Energy Sources in Europe](#)

³ [CEER Paper on Alternative Connection Agreements](#)

Main findings:

- There are large differences between countries in the implementation, prevalence and regulation of alternative connection agreements.
- Alternative connection agreements should be considered in the case of underdeveloped (local) flexibility markets, to prevent strategic bidding in local flexibility markets, or as a temporary instrument to connect new users that can only be connected on a firm basis once ongoing network reinforcements are realised.
- NRAs need to carefully assess the interaction between alternative connection agreements and other, especially market-based, mechanisms for DSOs to access flexibility when considering their implementation.
- Successful implementation of alternative connection agreements requires smart grid operation by DSOs, a well-informed NRA and a fit-for-purpose regulatory design.
- The current legal and regulatory status of alternative connection agreements affects implementation.

CEER Short paper on the ownership of Storage Facilities in the Electrical Distribution System⁴

This document seeks to outline a stepwise guide on the tendering procedure and the derogation granting process pursuant to paragraph (2) of article 36 of the (EU) 2019/944 Electricity Directive wherein it is provided under which circumstances are DSOs – otherwise prohibited of doing so – allowed to own, develop, operate or manage electricity storage facilities. For this purpose, the drafting team also gathered information on the national implementation of this article.

Main findings:

- Most legislators clearly distinguish between fully integrated network components and other storage; however, in many cases, the legislation does not define them precisely.
- A majority countries do not have DSO-owned storage, and no derogations have been granted.
- The DSO has to perform an approved tendering procedure to determine whether the services needed are offered in the market. The tender design is thus critical.
- The tender has to be open, transparent and non-discriminatory, and possibly pre-approved by NRAs.
- Regarding the tender design, DSOs should consider other flexibility options offering the same services.

⁴ [CEER Short paper on the ownership of Storage Facilities in the Electrical Distribution System](#)

3 CEER Advocacy work

In the first half of 2023, CEER has responded to **2 public consultations**. Below, we present topics and main messages sent to the European Commission.

<p>ACER/CEER Reaction to the Commission's public consultation on electricity market design</p>	<p>14. 2. 2023</p>
<ul style="list-style-type: none"> • ACER and CEER call for careful design of Contracts for Difference and harmonisation of design principles of such contracts (e.g. through the Commission's guidelines). • Regulators call for an analysis of whether the overall governance and organisation of the EU internal electricity market is still fit for the purpose of delivering integration projects and bringing their benefits to EU consumers in a reasonable time. • ACER and CEER realise that the adjustments of the clearing price limits on day-ahead and intraday markets can be triggered by purely circumstantial events, yet such increases would last indefinitely. Regulators, therefore, call for an assessment of the need to allow for a decrease in the maximum clearing prices. • Regulators believe that a minimum common definition of the nature, scope and role of suppliers of last resort (SOLR) needs to be identified. • Considering the existing interlinks in terms of market impact between spot and derivative wholesale energy products, energy regulators should be competent to apply the prohibitions of insider trading and market manipulation to derivatives on energy commodities. • In the context of the current energy crisis, many stakeholders also asked for significant market design reforms. ACER/CEER emphasise that the EU framework does not allow for fast adaptation of the market design, which would be required to address the emerging problems. 	
<p>CEER Response to the Commission's consultation on the priority list for the establishment of gas network codes and guidelines for 2023 (and beyond)</p>	<p>6. 4. 2022</p>
<ul style="list-style-type: none"> • CEER sees room to frontload the question of how cybersecurity could be ensured for gas(es), considering the current geopolitical situation and ACER's submission of a revised Network Code on electricity cybersecurity. We recommend that equivalent care is taken regarding gas networks. • CEER believes that a minimum level of cybersecurity is a prerequisite for the future increase in data exchange necessary to facilitate large-scale integration of renewable energy sources (RES). • Regulators believe that cost-efficient deployment based on adequate concepts and hardware is in the interest of all consumers. • CEER stands ready to contribute to future processes to review and amend network codes or guidelines to ensure their continued efficacy. 	

About CEER

The Council of European Energy Regulators (CEER) is the voice of Europe's national energy regulators. CEER's members and observers comprise 39 national energy regulatory authorities (NRAs) from across Europe.

CEER is legally established as a not-for-profit association under Belgian law, with a small Secretariat based in Brussels to assist the organisation.

CEER supports its NRA members/observers in their responsibilities, sharing experience and developing regulatory capacity and best practices. It does so by facilitating expert working group meetings, hosting workshops and events, supporting the development and publication of regulatory papers, and through an in-house Training Academy. Through CEER, European NRAs cooperate and develop common position papers, advice and forward-thinking recommendations to improve the electricity and gas markets for the benefit of consumers and businesses.

In terms of policy, CEER actively promotes an investment friendly, harmonised regulatory environment and the consistent application of existing EU legislation. A key objective of CEER is to facilitate the creation of a single, competitive, efficient and sustainable Internal Energy Market in Europe that works in the consumer interest.

Specifically, CEER deals with a range of energy regulatory issues including wholesale and retail markets; consumer issues; distribution networks; smart grids; flexibility; sustainability; and international cooperation.

More information is available at www.ceer.eu.

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