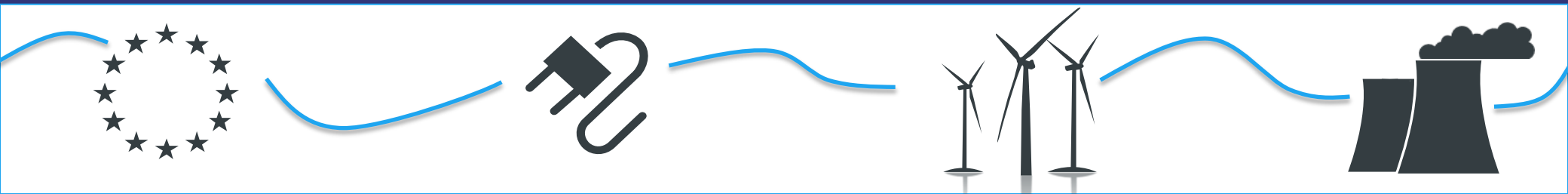
German Energiewende & Bird & Bird

Latest German Energiewende Developments &
Some Recent European Aspects

London, 22 July 2014

Dr. Matthias Lang



Today's presenters

Dr. Matthias Lang

Partner, Energy & Utilities
Düsseldorf

Phone: +49 (0)211 2005 6293
E-Mail: matthias.lang@twobirds.com

www.germanenergyblog.de

Matt Bonass

Partner, Energy & Utilities
London

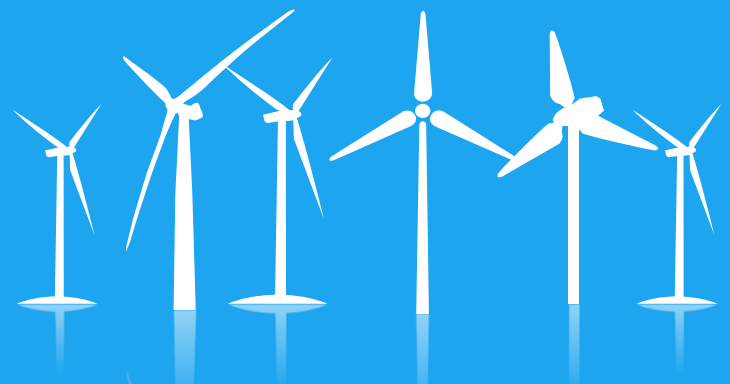
Phone: +44 (0)20 7415 6731
E-Mail: matt.bonass@twobirds.com

Program

10.00 – 11.00 Latest German Energiewende Developments

11.00 – 11.20 Highlights European Energy Developments

11.20 – 12.00 Q&A Session



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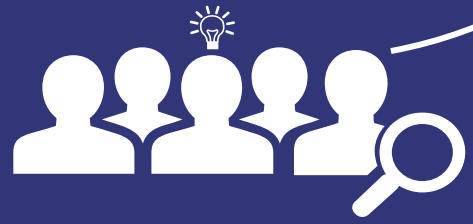

1. About Bird & Bird

1. About Bird & Bird - Facts & Figures -

International

- One of the leading international law firms
- Established 1846 in London
- More than 225 Partners and more than 1,100 lawyers
- 26 locations worldwide in 17 countries
- 4 German offices in Düsseldorf, Frankfu Munich and Frankfurt
- Advice to SME as well as global players and Institutions
- Full-service, entrepreneurial law firm
- Worldwide extensive advice in all fields of law with a focus on technology orientated and innovative business sectors and companies

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1. About Bird & Bird
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• Generators and storage operators	• Grid expansion and grid access
• Transport and distribution system operators	• Grid fees / incentive regulation
• Trading Houses	• Smart Grid / Smart Metering
• Operators of renewable energy systems	• Electric mobility
• Wind farms, solar park , bio fuel producers	• Legislation and standardisation
• Energy services providers	• Energy storage, carbon capture & storage
• Banks	• CO_2 certificates / emissions trading
• Private equity / infrastructure funds	• Green IT
• Project financers	• Oil & gas
• Regional authorities	• Privatisation/remunicipalisation
• Federal Republic, Länder, districts, municipalities	• Water supply
• Manufacturers and suppliers	• Waste disposal
• Project / process developers	• Energy projects
• System integrators	• M&A in the energy sector

1. About Bird & Bird - Energy Düsseldorf -

Energy and Utility Sector Expertise

- Düsseldorf team with deep sector knowledge
- Experience as lawyers, regulators, in-house counsels
- Advice to national and international clients
- English language blog on German energy: www.germaneneryblog.de

1. About Bird & Bird - Energy Germany -

Energy and Utility Sector Expertise

- Further energy know how in Düsseldorf, Munich, Hamburg, und Frankfurt
- Multidisciplinary approach to allow comprehensive advice

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1. About Bird & Bird - Energy United Kingdom -

Energy and Utility Sector Expertise

- Experienced team in London
- Multidisciplinary approach to allow comprehensive advice

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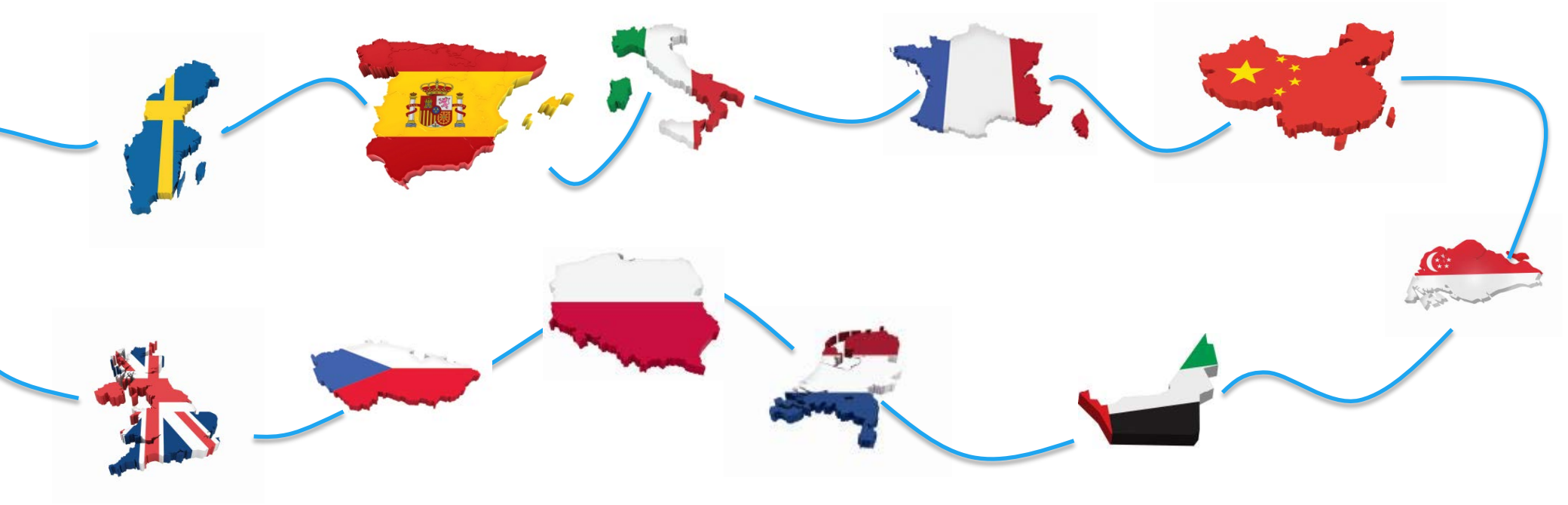
1. About Bird & Bird
- Energy Europe & Asia & Middle East -

Energy and Utility Sector Expertise

- Close cooperation with colleagues in other European and Asian offices
- Deep understanding of European Community law and procedure



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2. German Energiewende

2. German Energiewende

- Background -

2. Energiewende - Background -

Energiewende – 2011 Energy Turnaround

- "Wende" (turnaround): term used for changes during German reunification
- Significant acceleration in the wake of Fukushima nuclear reactor accident in March 2011
- Most ambitious transformation programme of the energy landscape within the EU
  - Nuclear exit
  - 2012 Monitoring Report: "Paradigm change in German energy industry"
  - Expansive growth in renewable generation capacities (especially wind and solar)
  - Extension and modernization of the grid
  - Storage facilities, additional programmes for energy conservation

2. Energiewende - Background -

Energiewende – 2011 Energy Turnaround

- Package brought a significant change in the energy supply structure in Germany, particularly in terms of electricity generation
- Instant decommissioning of **8 nuclear power plants** (8,400 MW)
- Staggered phase-out of remaining **9 nuclear power plants** (12,000 MW) between 2015 and 2022
- Expansive growth in renewable generation capacities becoming a cornerstone of future energy supply
  - Targets are inter alia laid down in new Section 1 para. 2 EEG for electricity supply (2020: 35%, 2050: 80%)
  - 2013: Share of renewables in Germany's electricity generation rises to 24,1 (after 21.9% in 2012, 20.3% in 2011/17% in 2010)

2. Energiewende - Background -

Moratorium and Exit Decision

- Moratorium shutdown of 7 oldest nuclear power plants (Biblis A, Neckarwestheim 1, Biblis B, Brunsbüttel, Isar 1, Unterweser, Philippsburg 1) after Fukushima incident
- Mid 2011 exit decision not to restart moratorium plants and Krümmel
- Staggered phase out of 9 remaining power plants
  - 2015 Grafenrheinfeld (Bavaria),
  - 2017 Gundremmingen B (Bavaria),
  - 2019 Philippsburg II (Baden-Württemberg),
  - 2021 Grohnde (Lower-Saxony), Brokdorf (Schleswig-Holstein) and Gundremmingen C (Bavaria);
  - 2022 Isar II and Neckarwestheim II (Baden-Württemberg) and Emsland (Lower-Saxony)

2. German Energiewende

- Coalition Agreement -

2. Energiewende - Coalition Agreement -

CDU/CSU/SPD Coalition Agreement 2013

- 15 pages energy agenda, out of 179 pages of content in coalition agreement
- Items
  - Energiewende
  - Energy efficiency
  - Electricity market design
  - Storage
  - Grids
  - Nuclear power exit
  - Fracking
  - Reform of Renewable Energy Sources Act (EEG)

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2. Energiewende - Coalition Agreement -

Coalition Argeement

- Continue Energiewende
- Energy policy triangle
  - Climate and environmental compatibility
  - Security of supply
  - Affordability: Further expansion of renewables to occur bearing in mind cost efficiency of overall energy infrastructure, including grid expansion and necessary back-up capacities
- Climate protection
  - National level: greenhouse gas emissions shall be reduced by at least 40% (based on 1990 figures) by 2020
  - EU level: reduction of at least 40% by 2030
  - Improvement European Emission Trading System; backloading of 900 million emission allowances to remain one time event

2. Energiewende - Coalition Agreement -

Energy Efficiency

- To be increased
- National Action Plan Energy Efficiency to be developed "in 2014"
  - With tools, funding and responsibilities of the various stakeholders
- Increase funding for energy-efficient renovations provided by the financial support program me of the state-owned KfW development bank
  - No additional tax promotion programme for energy-efficient renovations not in final version of the coalition programme
- Still rather unspecific

2. Energiewende - Coalition Agreement -

Electricity Market Design

- Agreement that flexible conventional power plants are needed to back-up the fluctuating renewable power input as long as other options like storage facilities and demand side management are not sufficiently available at reasonable prices
- Necessary measures
  - Promotion of more flexibility on the supply and the demand side
  - Further development of procurement of grid reserve capacity through auctions held by the transmission system operators ; existing fossil-fuel power plants could be used as back-up power plants

2. Energiewende - Coalition Agreement -

Electricity Market Design

- Necessary measures
  - Based on the Ordinance on Reserve Power Plants (ResKV) the Federal Network Agency shall examine the need for the construction of new power plant capacity (in particular in Southern Germany) to avoid short-term risks for the security of supply
  - While capacities currently sufficient, a capacity market (providing back-up power) shall be developed in the medium term. It shall be cost-efficient, competitive, technology-open and in compliance with EU law
  - Share of combined heat and power shall increase to 25% by 2020
- Green paper based on various studies now announced for autumn 2014
- Following public consultation (to be finished by September 2015), a white paper shall propose specific steps
- New Market Design Act (revision Energy Act) scheduled for August 2016

2. Energiewende - Coalition Agreement -

Storage

- Provisions vague
- Examination of technically available and economical storage options in the coming years to gauge need for conventional reserve power
- A mix of different storage types shall be needed
- Necessary legal framework to be developed that is open to all technologies
- Review final consumer obligations of storage facilities in light of storage system functions
- Medium to long term need for new storage, with continuation of broad research program

2. Energiewende - Coalition Agreement -

Grids

- Grid expansion shall go hand in hand with the legally binding growth targets for renewable power plants
- Federal Requirement Plan (Bundesbedarfsplan) to remain central instrument for development of transmission grids
- Distribution grids are the backbone of the Energiewende
- investment-friendly condition to be developed
- Evaluation reports for incentive regulation scheme and grid study on modern distribution grids as data basis for development of regulatory framework

2. Energiewende - Coalition Agreement -

Grids

- Creation of reliable legal conditions for the roll-out of smart meters in 2014
- Review of grid fees with regard to a fair burden sharing of infrastructure costs, in particular as regards self-consumed electricity
- Revise legal framework for recommunalisation of distribution grids, including legal certainty for transfer of grids

2. Energiewende - Coalition Agreement -

Nuclear Power Exit

- Confirmation of nuclear power exit by 2022
- Secure operation until shutdown to be ensured
- Coalition agreement does not contain a mention of a fund aimed at making utilities bear more of the costs of a nuclear shutdown as previously suggested by the SPD
  - "We expect the operators to bear the costs for nuclear waste and the dismantling of the nuclear power plants. The government will enter into talks with the utilities about the implementation of their legal obligations
- A nuclear waste disposal site shall be selected involving the general public following a proposal for a suitable permanent waste disposal site by the committee set up in accordance with the Nuclear "Location Search Act" (Standortauswahlgesetz - StandAG)

2. Energiewende - Coalition Agreement -

Fracking

- Technology with significant risk potential
- Applications for fracking permits could only to be processed if sufficient data to establish beyond doubt that there will be no negative impact for water quality
  - Considered to be presently not the case
- Protection of drinking water to be improved
- Introduce stricter regulation on environmental impact assessments fro fracking
- Restrictive course to be continued
  - On 11 July 2014 the Federal Council decided in a plenary session to pass the issue of fracking on to its committees. The federal states Schleswig-Holstein, Baden-Wuerttemberg and Hessen filed a motion to prohibit fracking in Germany

2. Energiewende - Coalition Agreement -

EEG Reform

- Substantial reform of the Renewable Energy Sources Act (EEG)
  - Excessive support for new plants reduced, whereas existing renewable power plants shall not be affected
  - All technologies shall be subject to support that is decreasing over time (degression)
  - Bonuses granted on EEG support (e.g. for biomass) shall be reviewed and mostly abolished
  - Green power privilege (Grünstromprivileg) to be abolished
  - Further amendments on PV, wind (onshore and offshore), biomass, hydro, tender process, market and system integration, international competitiveness of German industry
  - Alignment European law
  - (Protect justified interests)

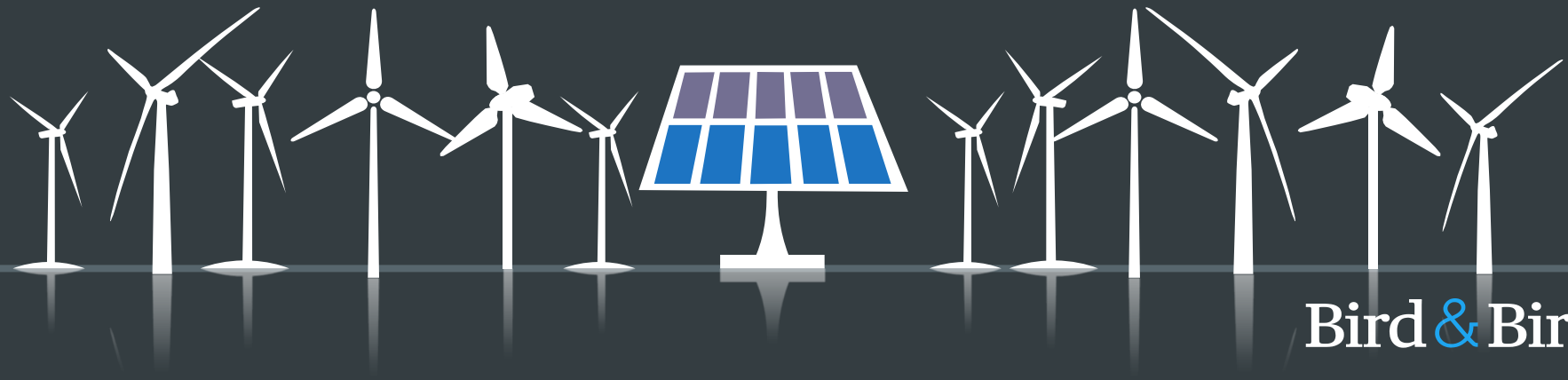
Expansion Targets

40 – 45 % by 2025

55 – 60 % by 2035

80 % by 2050

Renewable share in electricity generation



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2. German Energiewende

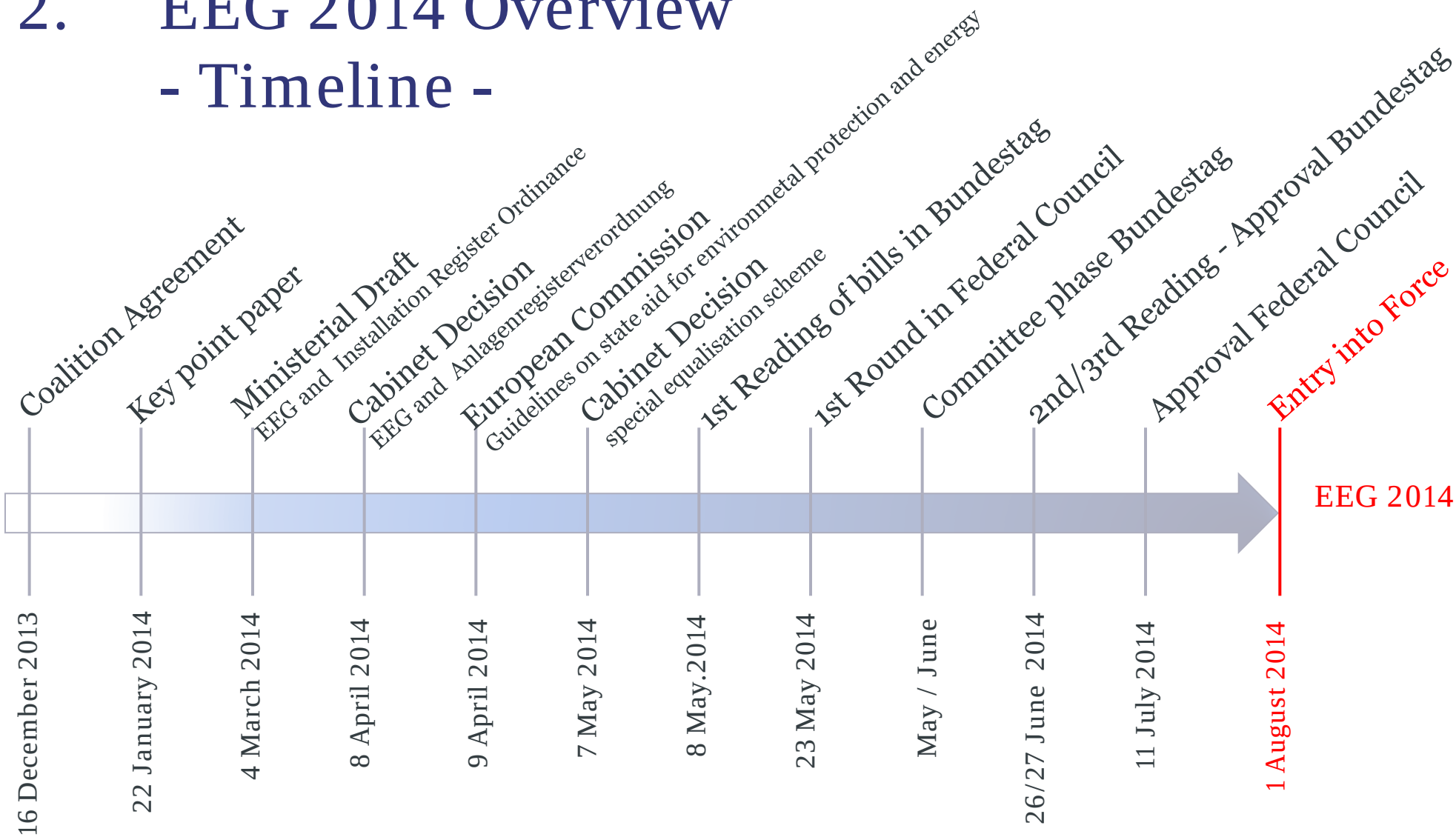
- Legislative Procedure --

2. Overview EEG 2014 - Legislative Procedure -

Ambitious Timeline EEG Revision

- EEG shall enter into force on 1 August (only 8 month after signing the coalition agreement on 16 December 2013)
- Amendments are important for the whole energy market
- Amendments effect not only the EEG, but also inter alia
  - Energy Industry Act (EnWG) - Article 6 of the draft
  - Federal Requirement Plan Act (Bundesbedarfsplangesetz) - Article 11 of the draft
- Several mainly editorial amendments in 13 different bills and ordinances
- Supplementary bills in EEG 2.0 package:
  - Revision of the special equalisation scheme for energy and trade intensive companies, now part of the EEG Revision bill
  - Länder opening clause to stipulate minimum wind power distances

2. EEG 2014 Overview - Timeline -



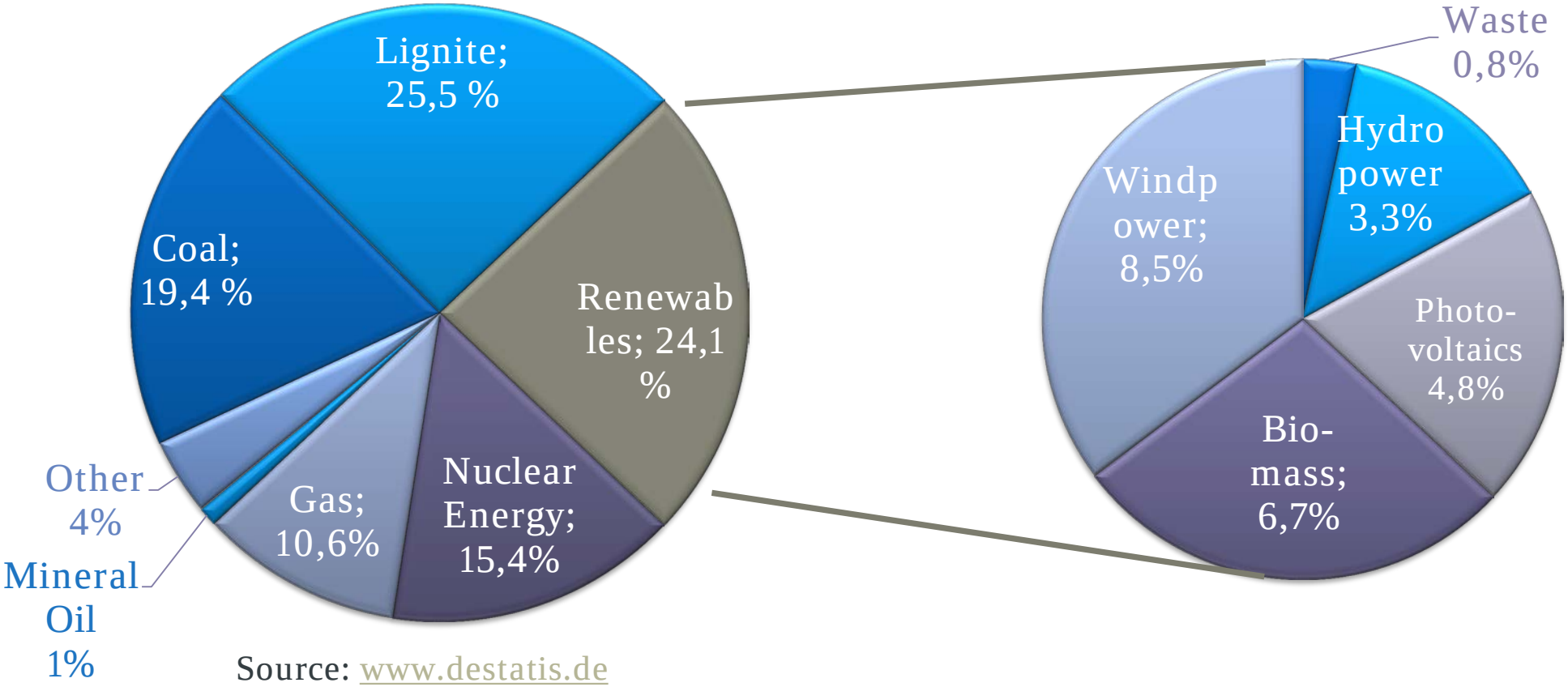
2.1 German Energiewende

- Facts & Figures -

2.1 Energiewende - Shares of Electricity Generation -

Electricity Generation

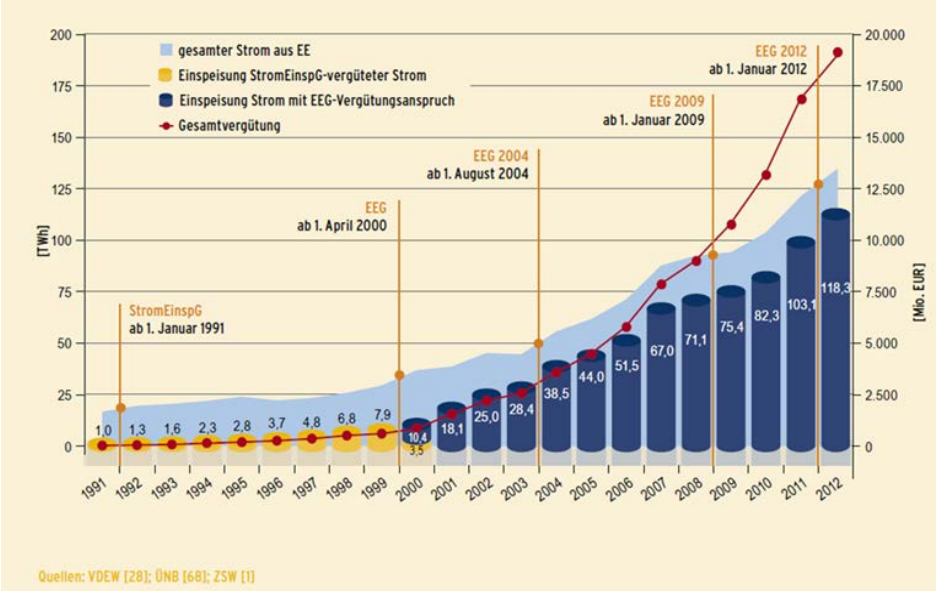
Total amount of gross electricity generation in Germany 2013: 631.4 TWh



Source: www.destatis.de

2.1 Energiewende - Facts & Figures -

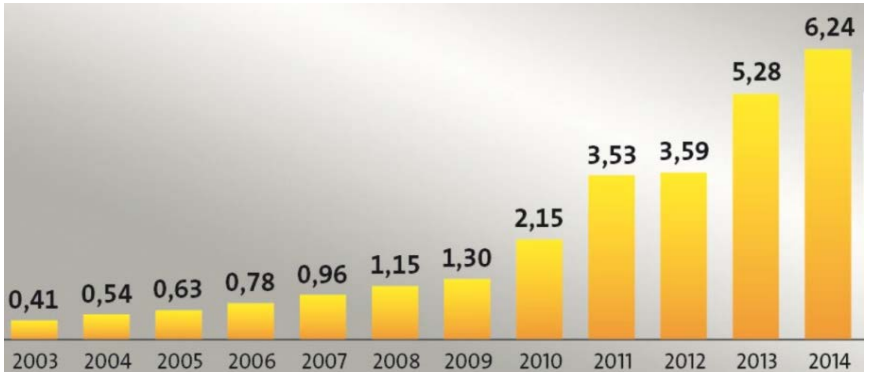
Feed-In and Feed-In Tariffs According to StromEinspG from 1991 and to EEG from 1 April 2000



Source: BMU
http://www.erneuerbare-energien.de/fileadmin/Daten_EE/Dokumente__PDFs__/ee_in_zahlen_bf.pdf

Development of EEG surcharge from 2001 until 2014

- Enormous increase of EEG surcharge, largely due to boom of PV installations



Source: tagesschau.de
http://www.tagesschau.de/wirtschaft/eeg-umlage108.html

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2.2 German Energiewende

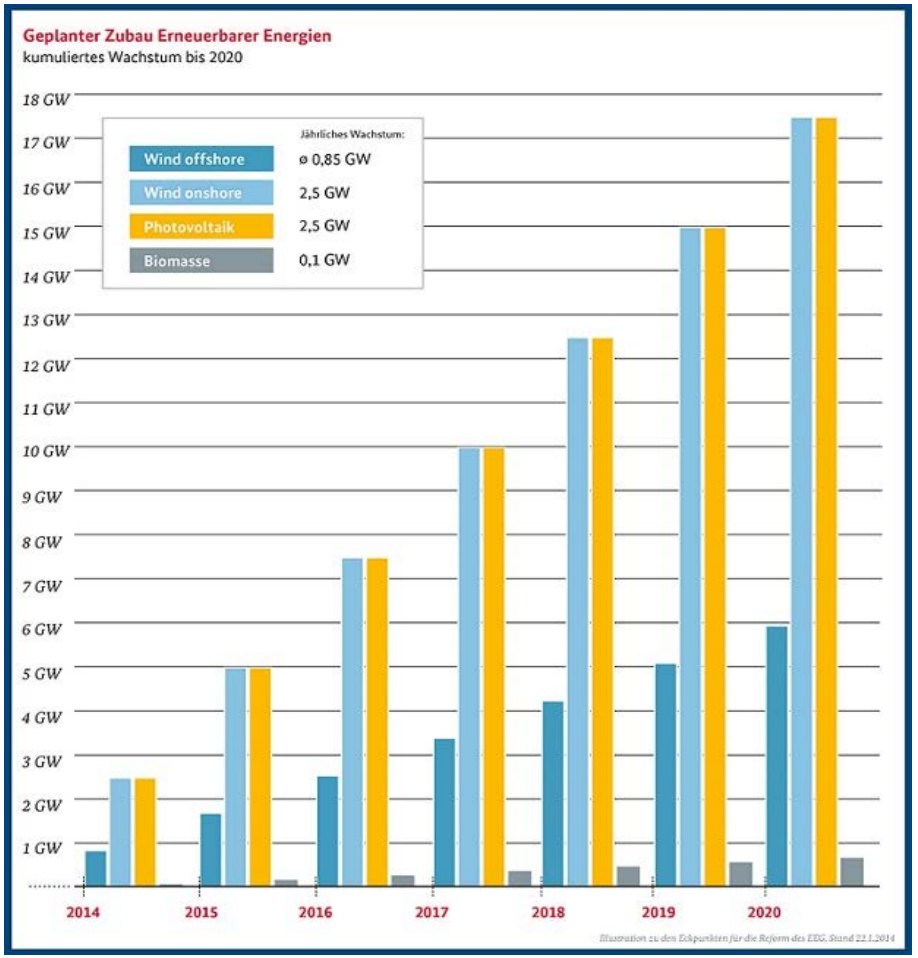
- Main Issues of EEG Revision 2014 -

2.2 Overview EEG 2014
- New "Expansion Path" (Ausbaupfad) -

Expansion Path

- Encourage growth renewables
  - 40% to 45% by 2025
  - 55% to 60% by 2035
  - in line with previous targets
- PV: 2,500 MW/year gross
- Onshore Wind: 2,500 MW/year net
- Offshore Wind:
  - 6,500 MW by 2020
  - 15,000 MW by 2030
- Biomass: up to 100 MW/year gross

Source chart: BMWI – Homepage (Stand 23.05.2014)



2.2 Overview EEG 2014 - Breathing Cap Concept -

Breathing Cap Concept

- To ensure compliance with the corridors, so-called “breathing caps” are introduced for onshore wind power and biomass
- Modelled on the existing “breathing cap” for solar power
- Means that financial support for onshore wind power and biomass under the new EEG is reduced quarterly (not annually) as of 2016 and can increase or decrease if growth exceeds or falls below the targets (please see new Sections 27 and 28 EEG)
- Existing breathing cap for solar power is tightened with regard to the thresholds and the applicable additional support reductions or increases (cf. Section 29 EEG 2014)

2.2 Overview EEG 2014 - Solar Power (1/2) -

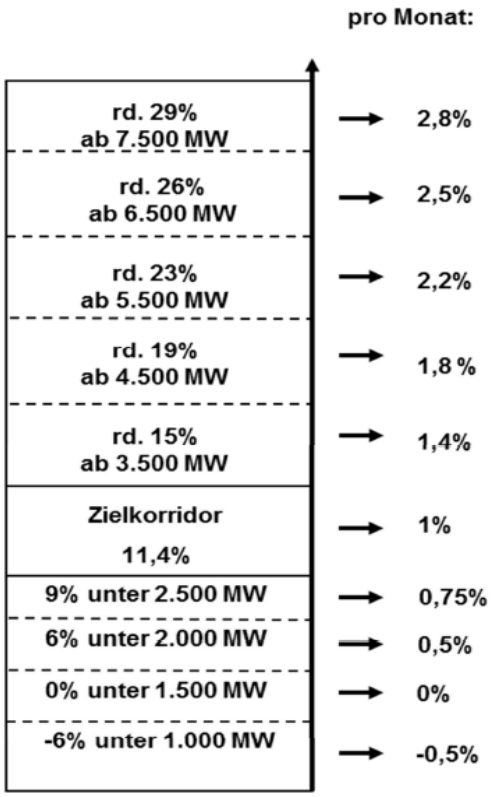
Target Corridor

of 2,400 to 2,600 MW net per year, with current indirect quantity control via breathing cap concept to continue

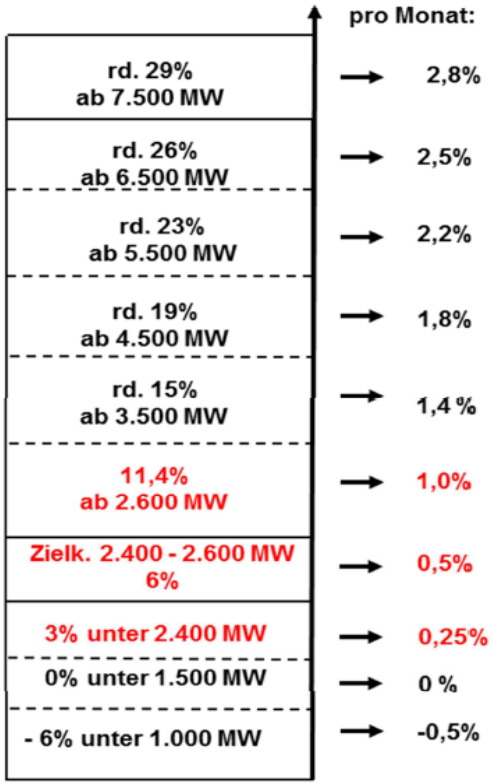
- Effectively reduction, as EEG presently contains a 2,500 to 3,500 MW target corridor in Sec. 20a EEG
- No deductions of capacity that has been decommissioned

Source chart: Draft bill BT. DRs. 18/1304, S. 203

EEG 2012



EEG 2014



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2.2 Overview EEG 2014 - Solar Power (2/2) -

Auctioning to Determine Support Level (§ 55 EEG 2014)

- Change of systems: from feed-in tariffs to Auctioning
- Auctioning test to determine financial support levels
  - Scaled down compared to earlier government plans
  - Pilot project for freestanding 400 MW solar power plants (e.g. complete promotion of freestanding subject to auctioning)
- To be organized by the Federal Network Agency in accordance with an ordinance regulating the matter, ordinance not yet published
- Further revision of EEG by 2017 to introduce auctioning to determine support levels, in light of experience with pilot project

2.2 Overview EEG 2014 - Biomass -

Biomass Sec. 28, 44 EEG 2014

- Support to focus on plants using mainly waste and residue
- Growth shall not exceed 100 MW (Section 27), with new degression model for financial support, from 2016 quarterly degression of 0.5 cent
- Degression will increase by 1.27 % if target will be exceeded
- Extended transitional regulations

Capacity	Feed-in-tariffs EEG 2014	Feed-in-tariffs 2012
Up to 150 kW	13.66 ct/kWh	13.73 ct/kWh
Up to 500 kW	11.78 ct/kWh	11.81 ct/kWh
Up to 5 MW	10.55 ct/kWh	10.56 ct/kWh
Up to 20 MW	5.85 ct/kWh	5.76 ct/kWh

2.2 Overview EEG 2014 - Geothermal -

Geothermal Sec. 26, 48 EEG 2014

- Feed-in tariff increases from currently 25.0 ct/kWh to 25.2 ct/kWh, Sec. 28 EEG. Reason is that the feed-in tariffs contain now also the management premium (currently 0.225 ct/kWh) in the amount of 0.2 ct/kWh
- No growth target
- Technology bonus (cf. Sec. 28 para. 2 EEG) deleted
- Feed-in tariffs shall decrease on 1 January each year from the year 2018 onwards by 5%

2.2 Overview EEG 2014 - Hydropower -

Hydropower Sec. 27, 40 EEG 2014

- No growth target
- Decrease of feed-in tariffs from 2016 onwards by 0,5 % each year
- Slight changes regarding the feed-in tariffs

Capacity	Feed-in-tarrifs EEG 2014	Feed-in-tarrifs EEG 2012
Up to 500 kW	12.52 ct/kWh	12.45 ct/kWh
Up to 2 MW	8.25 ct/kWh	8.13 ct/kWh
Up to 5 MW	6.31 ct/kWh	6.17 ct/kWh
Up to 10 MW	5.54 ct/kWh	5.39 ct/kWh
Up to 20 MW	5.34 ct/kWh	5.19 ct/kWh
Up to 5 0MW	4.28 ct/kWh	4.12 ct/kWh
More than 20 MW	3.50 ct/kWh	3.33 ct/kWh

2.2 Overview EEG 2014 - Wind Onshore (1/4) -

Wind Onshore – Feed-In-Tariffs, Sec. 29 EEG 2014

- Annual growth target corridor of 2,400 to 2,600 MW
- Support subject to degression and a so-called “breathing cap”:

  From 2016 onwards the quarterly reduction shall increase if the total installed capacity of promoted installations exceeds the annual capacity expansion corridor, Sec. 20d, para 3 EEG

Expansion exceed growth target corridor by	Increase of degression to
up to 200 MW	0.5 %
more than 200 MW	0.6 %
more than 400 MW	0.8 %
more than 600 MW	1.0 %
more than 800 MW	1.2 %

2.2 Overview EEG 2014 - Wind Onshore (2/4) -

Wind Onshore – Feed-In-Tariffs, Sec. 29 EEG 2014

- The quarterly reduction shall be reduced by the following percentage if the total installed capacity of promoted installations falls below the annual capacity expansion target corridor

Expansion fall below growth target corridor by	Reduction of the degression to
up to 200 MW	0.3 %
more than 200 MW	0.2 %
more than 400 MW	0 %
more than 600 MW	0% Degression + increase of feed-in-tariffs by 0.2 %
more than 800 MW	0% Degression + increase of feed-in-tariffs by 0.4 %

2.2 Overview EEG 2014 - Wind Onshore (3/4) -

Wind Onshore – Feed-In-Tariffs Sec. 49 EEG 2014

- Reduction of existing support
  - "Repowering" bonus for replacing old wind turbines by newer, more powerful ones (Repoweringbonus; cf. Section 30 EEG) deleted
  - bonus for providing system services (Systemdienstleisungsbonus; cf. Section 29 para. 2 sent. 3 EEG) deleted
  - Adjustment reference yield model

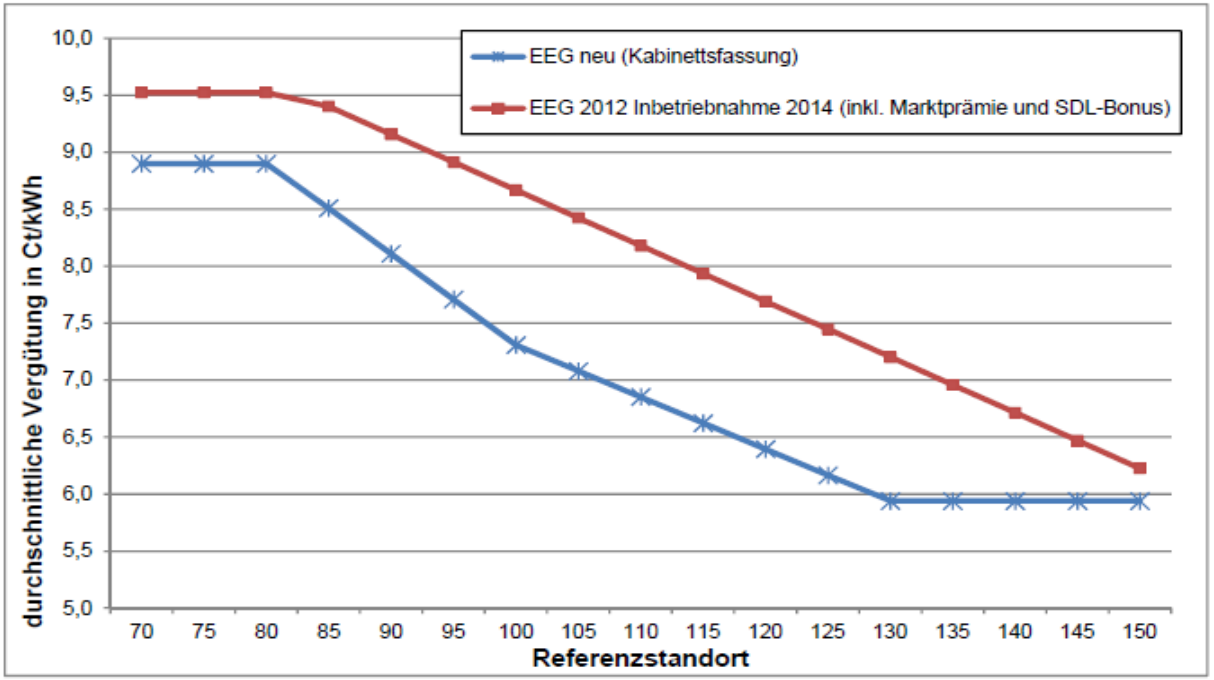
    Incentive to build wind power plants on more suitable locations
- System of basic and initial feed-in tariff will continue
- Feed-in tariffs contain also cost for marketing
  - Previously marketing costs were covered by the management premium

2.2 Overview EEG 2014 - Wind Onshore (4/4) -

Wind Onshore – Feed-In-Tariffs Sec. 49 EEG 2014

Existing system lead to:

- expansion on locations with a reference yield of less than 82.5 %
- only little expansion on location with reference yield of more than 130%



Durchschnittliche Vergütung (nicht abgezinst) bei Windenergie an Land für unterschiedliche Referenzstandorte gemäß EEG 2012 bei Inbetriebnahme in 2014 im Vergleich zur Kabinettsfassung zur Neuregelung des EEG.

Source chart:: Draft bill BT. DRs. 18/1304, S. 233

2.2 Overview EEG 2014 - Wind Offshore (1/3) -

Wind Offshore Sec. 50 EEG 2014

- Reduction of the national targets for offshore wind power from 10 GW to 6.5 GW by 2020 and from 25 GW to 15 GW by 2030.
- Increased offshore-funding model (compression model - Stauchungsmodell) shall be extended by two years until 31 December 2019
- Degression of financial support amended
  - Compression model: 19.4ct/kWh for first 8 years (18.4 for 2018 and 2019)
  - Base model: 3.9 ct/kWh base value, 15.4 ct/kWh first 12 years (plus extension), 14.9 in 2018
  - Reduction 0.5% as of 1 January 2018, 1% as of 1 January 2020, 0.5% each year after 1 January 2021
  - Extension if feed-in delayed/impossible

2.2 Overview EEG 2014 - Wind Offshore (2/3) -

Capacity Regulations (Amendment EnWG)

- § 17d EnWG (para 3-5):
  - Shall ensure reaching of expansion target of 6.5 GW in 2020
  - BNetzA can allocate grid capacity until 31 January 2018 exceeding expansion target by up to 1.2 GW
  - Capacity shall be auctioned or allocated in another allocation procedure if there is not enough capacity for allocation or if demand by offshore wind power plants included in the Federal Offshore Plan exceeds the capacity of a commissioned grid connection
  - Tightening of the "use it or lose it - principle": BNetzA can withdraw capacity already 24 month before binding date for completion

2.2 Overview EEG 2014 - Wind Offshore (3/3) -

New Allocation Procedure in Sec. 17d para. 3 EnwG

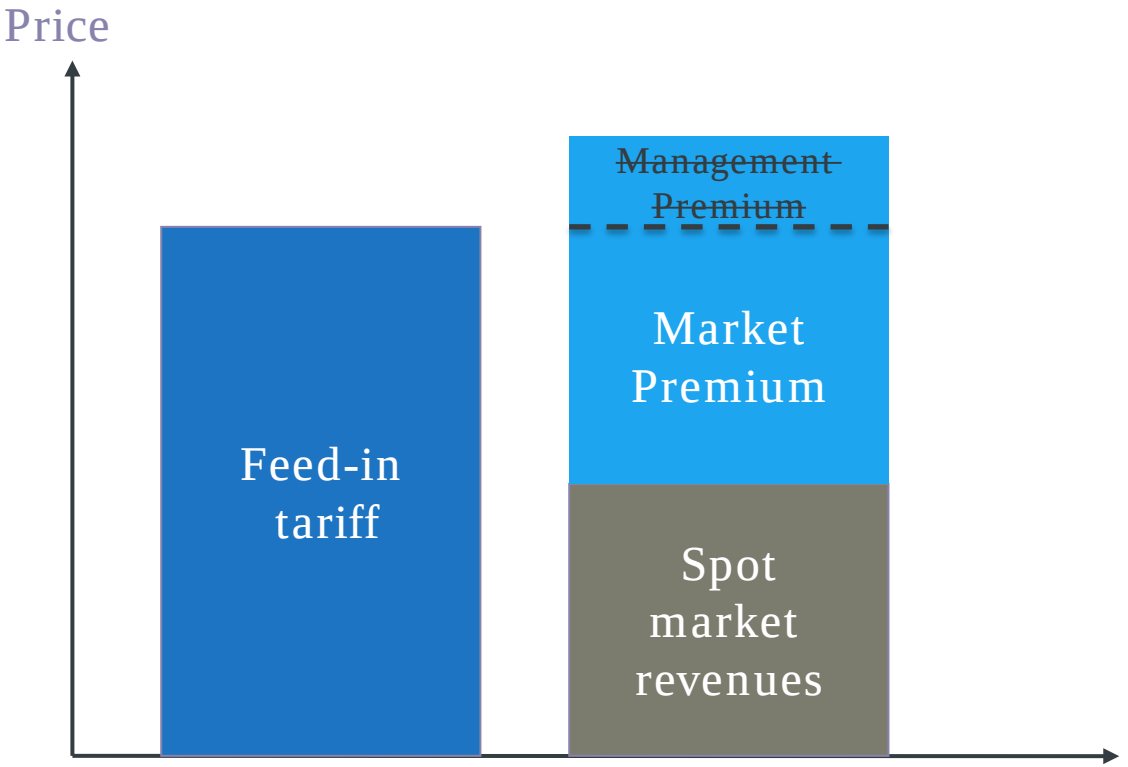
"Grid connection capacity on connecting power lines will be allocated by the Regulatory Authority in cooperation with the Federal Agency for Maritime Shipping and Hydrography in an objective, transparent and non-discriminatory procedure. The maximum capacity to be allocated, including all existing unconditional grid connection commitments, shall amount to 6.5 GW until 31 December 2020. As of 1 January 2021 allocatable capacity in the sense of sentence 2 shall rise by 800 MW annually. The Regulatory Authority can allocate grid connection capacity on condition of collateral clauses (Nebenbestimmungen) pursuant to Section 36 Administrative Procedure Act (Verwaltungsverfahrensgesetz)."

2.2 Overview EEG 2014 - Market Exposure -

- Principle: Mandatory direct marketing for new installations
- Presently, most renewable power plant operators can receive feed-in tariffs. Operators may also (voluntarily) decide to sell green electricity directly and claim a market premium in addition to the revenue obtained

Source chart: BMWi

Market Premium Model Scheme



2.2 Overview EEG 2014 - Direct Marketing -

Direct Marketing

- Direct Marketing mandatory, if certain thresholds will be exceeded. Threshold will be reduced in future.

from 1 August 2014	from 1 January 2016
new installations > 500 kW	new installations > 100 kW

- Grandfathering rules for existing installations

2.2 Overview EEG 2014 - Green Electricity Privilege -

Green Electricity Privilege

- Green electricity privilege (Sec. 39 EEG 2012) deleted
  - Special form of reduction of the EEG-surcharge for electricity suppliers
  - Covered by December 2013 opening of Commission's in-depth investigate into the reduction on the renewables surcharge (EEG-surcharge)
  - Granted to suppliers that source 50% of their electricity portfolio from domestic renewable electricity
- But possibility to issue an ordinance regarding green electricity, in case Green Electricity Privilege is in line with European Law.

2.2 Overview EEG 2014 - Self Consumed Power -

Self Consumed Power

- Principle: Power consumed by generator himself (Eigenversorgung) shall also be subject to EEG surcharge payment obligation
- Uniform 40% surcharge for all new power plants, but 100% surcharge for all new power plants that are not renewable power plants or highly efficient CHP plants
- Staggered introduction of surcharge: 30% from 1 August 2014 and in 2015, 35% in 2016, 40% in 2017
- Important exemptions
  - Small installations with an installed capacity of up to 10 kW remain exempted from paying the EEG surcharge for the first 10 MW of self-consumed power
  - Despite concern by the Commission: No EEG surcharge for existing plants that are completely exempted under the currently applicable EEG

2.2 Overview EEG 2014 - Energy Intensive Companies (1/2) -

Special Equalisation Scheme

- On 9 May the Cabinet adopted a separate bill covering the special equalisation scheme (besondere Ausgleichsregelung) for energy intensive companies
- Special equalization scheme in the Renewable Energy Sources Act (EEG) provides for a reductions of the renewables surcharge (EEG surcharge) for energy-intensive companies
  - Bill complements the bill amending the EEG (EEG 2014) adopted by the government on 8 April 2014 which did not yet contain stipulations regarding EEG reductions
  - As the EU Commission had opened an in-depth investigation into the current EEG reduction scheme for alleged violation of EU state-aid rules last year, the government had waited for the publication of the Commission's state aid guidelines on 9 April 2014

2.2 Overview EEG 2014 - Energy Intensive Companies (2/2) -

Special Equalisation Scheme

- In line with the EU guidelines, eligible undertakings are those exposed to a risk to their competitive position due to the costs resulting from the EEG in support of renewable energy (i.e. the EEG surcharge). They are listed in Annex 4 EEG as so-called List 1 and List 2 companies
  - Undertakings can apply for an EEG surcharge reduction if the ratio of electricity costs to gross value added at factor costs amounts to 16% for List 1 undertakings (2015) and to 17% (2016)
  - 20% for List 2 undertakings

EEG 2.1 or EEG 3.0?

What next?

- Remaining issues on national level
  - Länder interests
  - Policy issues
- Remaining issues at European level
  - National renewables support schemes no longer "national reserve"
  - Free movement of goods/state aid
  - Integration of renewables into energy internal market
- Both EEG 2.1 and EEG 3.0 likely

3. European Developments

3.1 European Law

3.1 EEG and European Law - Growing Influence of EU Law -

Increasing Importance EU Law

- Internal electricity market communication from the Commission – Making the most of public intervention
- Commission in-depth investigations on German exemptions for large electricity consumers from network charges and EEG surcharge
  - EEG as state aid
  - Legality of exemptions
- Commission Guidelines on Environmental and Energy Aid
- Court of Justice of the European Union (CJEU)

3.1 EEG and European Law - State Aid Guidelines (1/2) -

Guidelines Environmental/Energy Aid 2014-2020

- Released 9 April 2014
- Shall support Member States in reaching their 2020 climate targets, while addressing the market distortions that may result from subsidies granted to renewable energy sources
  - Promote a gradual move to market-based support for renewable energy
  - Provide criteria on how Member States can relieve energy intensive companies that are particularly exposed to international competition from charges levied for the support of renewables
  - Include new provisions on aid to energy infrastructure and generation capacity to strengthen the internal energy market and ensure security of supply

3.1 EEG and European Law - State Aid Guidelines (2/2) -

Guidelines Environmental/Energy Aid 2014-2020

- Guidelines cover funding of renewable support systems/exemptions
  - *"Charges levied for the funding of renewable energy support make up an increasing proportion of the energy bill for industry. This constitutes a very high burden for some energy intensive companies, in particular those exposed to strong international competition."*
  - *"The guidelines therefore allow reducing the burden for a limited number of energy intensive sectors defined for the whole EU. Member States will also be allowed to reduce the burden on highly energy intensive companies in other sectors."*
  - *Further details of admissible reductions in Section 3.7.2 under the heading "Aid in the form of reductions in the funding of support for energy from renewable sources"*

3.1 EEG and European Law - Ålands Vindkraft (1/3) -

Swedish Renewables Support Scheme

- Ålands Vindkraft initiated legal action after the Swedish Energy Agency refused in 2009 to include the firm's Oskar wind farm in a national renewables support scheme on the grounds that it is not in Sweden
- View of Advocat General Ives Bot presented 28 January 2014:
  - Renewables Directive permits national-only support mechanisms, Article 34 TFEU (which takes precedence over the Directive) prohibits national rules that exclude producers whose plants are situated in other Member States

Bird & Bird

3.1 EEG and European Law - Ålands Vindkraft (2/3) -

Swedish Renewables Support Scheme

- Article 3 of the Renewables Directive 2009/28 provides that Member States must meet the minimum renewable energy targets set out in the Directive
  - They may apply support measures and measures of cooperation with other Member States in order to achieve the targets
  - Member States may decide to what extent they will support renewable energy generated in other Member States
- Swedish law provides for green certificates for nationally-generated renewable energy. Since 2011, Swedish green certificates have also been available for renewable energy generated in countries that have an agreement with Sweden
  - The only such agreement (and the only one in Europe) is the agreement with Norway

3.1 EEG and European Law - Ålands Vindkraft (3/3) -

CJEU Decision (C-573/12), 1 July 2014

- EU Court considers that a support scheme promoting green electricity such as the Swedish Electricity Certificate System is allowed under the EU Renewables Directive.
  - The Court first determined that legislation is in principle capable of impeding imports of electricity, especially green electricity, from other Member States.
  - It constitutes a measure with an equivalent effect to a quantitative restriction on imports. In principle, this is incompatible with the obligations of Article 34 TFEU, unless it can be objectively justified.
- However, the Court found that the Swedish restriction *is* justified by the public interest objective of promoting the use of renewable energy sources in order to protect the environment

3.1 EEG and European Law - Pending EEG State Aid Cases -

Pending EEG Cases Before Commission and General Court

- Commission's in-depth EEG inquiry into support for energy-intensive companies benefitting from a reduced renewables surcharge
- General Court
  - Germany v. Commission (T-134/14) regarding annulment of Commission Decision C(2013) 4424 final of 18 December 2013 to initiate the procedure provided for in Article 108(2) TFEU concerning the alleged State aid provided under some provisions of the amended German Law on renewable energy sources (EEG 2012) in the form of support for renewable electricity and reduced 'EEG surcharge'
  - Several individual actions (T-230/14, T-236/14, T-265/14, T-260/14, T-237/14, T-263/14)

3.2 Highlights of Developments in European Countries

3.2 UK
- Key Developments -

- Energy Act received Royal Assent on 18 December 2013, introduces a range of measures through which Electricity Market Reform (the "EMR") will be implemented by way of secondary legislation in Summer of 2014
- The Renewables Obligation ("RO") (Amendment) Order implements transition from RO to Contracts for Difference ("CfDs")
- A consultation released by Department of Energy & Climate Change ("DECC") in May 2014 proposes amendments to UK Feed-in Tariff ("FIT") scheme (e.g. the levels of support for solar projects)
- Office of Gas and Electricity Markets ("Ofgem") currently consulting on energy reference and possible in-depth 18-month review of the energy sector.
- Smart grids will make a key contribution to UK energy and climate goals. DECC and Ofgem set up a Smart Grid Forum

3.2 UK
- CfD: Solar market -

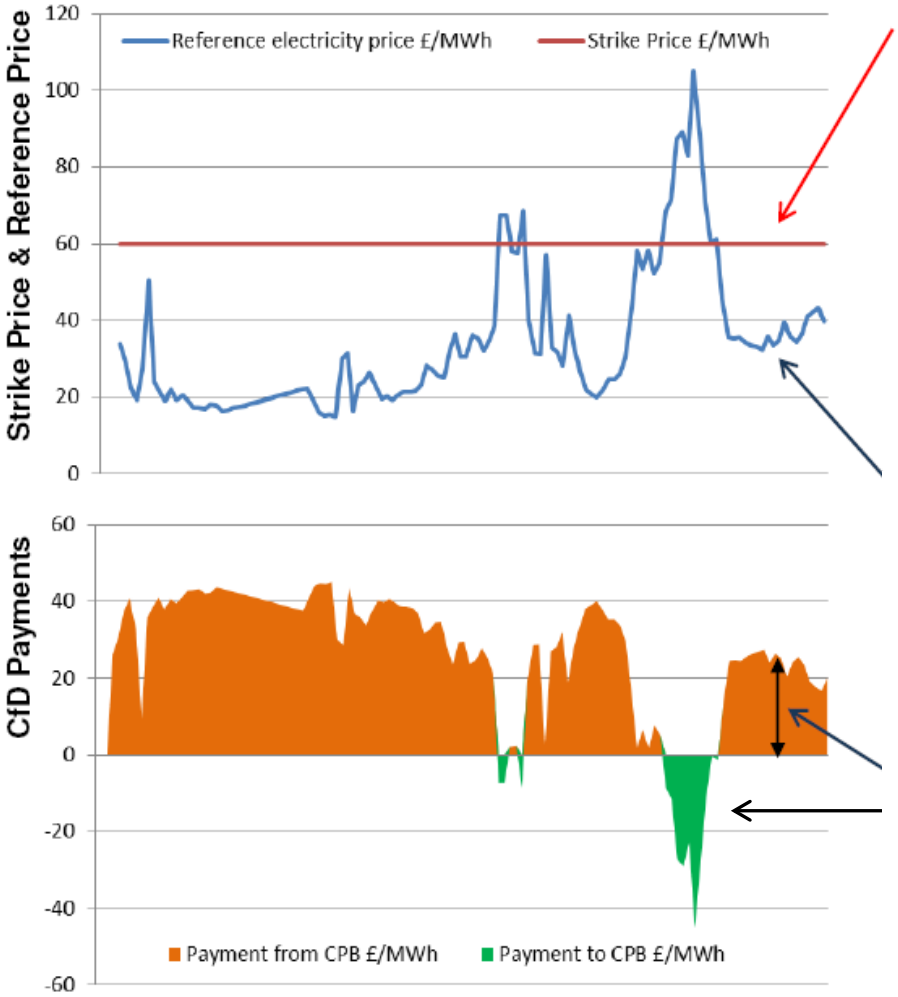
Contracts for Difference (CfD):

- Large-scale solar PV is deploying faster than expected
  - Delivery Plan range for large solar PV is 2.4-4GW by 2020
  - If not constrained, we could see ~5GW by as early 2017
- Consulting on a package of measures:
  - Consultation: opened 13/5/14; closed 7/7/14
  - Close RO from 1 April 2015 across Great Britain to solar PV >5MW
  - Projects of 5 MW and below are not affected
  - Projects may accredit as normal before 1 April 2015
  - Grace period to protect projects they have made certain progress by 13/5/14 (grid connection/ planning permission/ £ 100k of cost per MW)

3.2 UK
- CfDs: Basic Principals -

- State aid approved (24 May 2014)
- 15 year contract between "eligible" renewable generator and government owned counterparty (Low Carbon Contract Company)
- Funded by a charge on suppliers
- Generator is paid difference between market reference price and CPI linked contractual strike price (or generator pays counterparty if reference price exceeds strike)
- Replaces ROCs; but not a PPA
- Allocation rounds, not "first case, first served": limited funds
- No "entitlement" to a CfD: potential constrained allocation, sealed bids.

3.2 UK
- The CfD in Pictures -



Strike Price:

-Determined by competitive bidding

-No higher than the administrative cap

Year	14/15	15/16	16/17	17/18	18/19
Max SP *(£/MW 2012 Prices)*	120	120	115	110	100
eg. solar					

Reference Price/ Wholesale Energy Price

-Determined by the day-ahead GB price

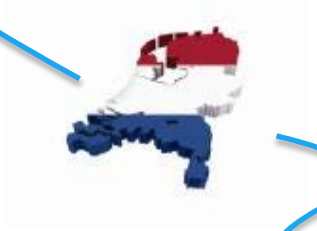
Difference Payment

- Generator pays CfD counterparty
- CfD counterparty pays generator
- Link & PPA price/ reference price

3.2 UK
- CfD Framework -

Allocation Framework	Standard Contract Terms
• Auction rules - set by National Grid • Sets out how CfDs are valued during an allocation • Confirms allocation round timings and deadlines • Details of eligibility and qualification requirements • Supplemental qualification requirements • Details of information to be supplied by applicant	• CfD Agreement (project specific) • CfD Terms and Conditions • Low Carbon Contracts Company (LCC) • LCC issues a version for signature, based on application information • LCC considers requests for 'minor and necessary' variations • Potential for 'bespoke' CfD

3.2 **Netherlands**
- Key Developments -



Closing of old coal power plants

- Dutch Minister of Economic Affairs announced new legislation which is expected
  - to result in the closure of old, less-efficient coal power plants
  - to impose more serve performance requierements to the coal power plants
- Background of legislation
  - Legislation means to avoid the consequences of an informal decision of the Dutch Authority for Consumers & Markets ("ACM") stating that the closure of less-efficient coal-fired plants was based on an agreement between four energy companies, concerning a coordinated shut-down of 5 coal-fired stations
  - Bird&Bird instructed to create a legal way out, lead to the aforementioned announcement of the Minister of Economic Affairs

3.2 **Spain**
- Key Developments -

Structural reform of the Spanish electricity sector

- In 2013 the Government launched a deep reform of the electricity sector regulations aimed to end the so-called "tariff deficit" including the following measures:
  - New taxes on energy production
  - Increase of tolls and tariffs paid by final consumers
  - Flexible remuneration for regulated activities (i.e. transport and distribution of electricity)
  - Tolls on self-consumption
  - New retributive regime for renewable energies
- The measures taken so far are related to regulated costs and revenues of the electricity system. A reform of the mechanism for wholesale market pricing (pool) is expected

3.2 **France**
- Key Developments -

- Ground-breaking law project for the energy sector
  - seeks to reduce fossil and nuclear energy production and consumption, increase focus on developing alternative sources of energy, by inter alia:
    - preparation of a management plan, every five years, in order to reassess energy need and give EDF chance to adjust its production.
    - reduction in total energy consumption up to 50% in 2050, in fossil energy consumption up to 30% in 2030, a reduction in greenhouse gas emissions up to 40% in 2030.
    - establishment of a quota of greenhouse gas emissions
    - Simplification of procedures for construction of wind and solar farms
    - Installation of 7 million charge points for electric vehicles by 2030.
- Ruling of the Court of Justice, 19 December 2013
  - French incentive mechanism for wind power constitutes an intervention through State resources
  - Consecquneces: Annulment of the ministerial order fixing the purchase price of wind-generated electricity.

3.2 Czech Republic
- Key developments -

- New/updated of State Energy Policy (**SEP**) determines the state objectives for the energy sector for the next 30 years.
- Main objectives of the SEP draft are as follows:
  - Increasing role of nuclear power that should gradually substitute coal as the main energy source
  - Development of economically effective renewable energy sources
  - exploration of energy potential of waste
  - energy savings and energy effectiveness
  - increase of energy security of Czech Republic
- Support of renewables by guaranteed feed-in tariff or a green bonus paid on the top of the market price
- Introduction of Measures to prevent increasing costs of renewables, inter alia:
  - Termination of support for new renewable power plants

3.2 **Slovakia**
- Key developments -

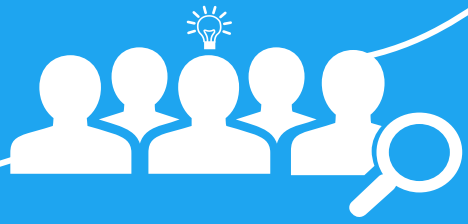
- Strategic document "Energy Politics of the Slovak Republic" defining main targets of the energetic sector until 2035 with outlook to 2050
- Measures to increase energy security inter alia are
  - finalization of the blocks 3 and 4 of the nuclear power plant in Mochovce
  - construction of a nuclear source in Jaslovské Bohunice
  - construction of smart grids
- Target to increase use of renewable energy by 20% in 2030
- In July 2014 Enel approved sale of its 66% stake in the Slovakia´s largest electricity producer – Slovenské elektrárne
- In June 2014 SEPS, a.s., published its plans for the development of the electricity transmission network until year 2023
  - Planned investment in next 10 years of ca EUR 618 mio. to increase existing capacities and modernisation of the main parts of the transmission network

4. Discussion

4. Discussion – Questions – Notes

Vielen Dank & Bird & Bird

Dr. Matthias Lang
Carl-Theodor-Straße 6
40213 Düsseldorf
Telefon: +49 (0)211 2005 6293
E-Mail: matthias.lang@twobirds.com
www.germanenergyblog.de



Back-up

1. Bird & Bird

1 About Bird & Bird - Energy & Utilities Expertise -

Bird & Bird's involvement in the energy sector is broad-based. We have a genuine understanding of the key business technologies, processes and regulatory frameworks that underpin the sector

- The German Energy & Utilities sector group includes more than 30 experts (including 10 Partners) from all relevant legal fields
- We support our clients on national and international projects in both the growing Single European Market and other areas
- Furthermore, the sector group comprises experienced career changers from the energy industry. This composition ensures hands-on advice on the basis of tested knowledge of the energy sector

Dr. Matthias Lang
Partner

'B&B has long been building up a hard-hitting energy team, and reinforced this with Dr. Matthias Lang. "Competitors praise him as "experienced, calm and knowledgeable"'

JUVE Handbook 2011/2012

"Leading legal practitioner"

International Who's Who of Energy Lawyers, 2013

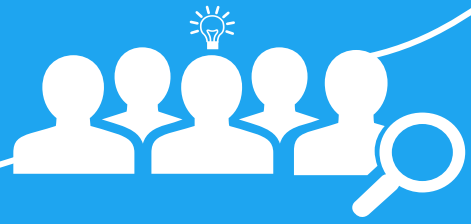
Matthias combines regulatory know how, commercial thinking and cross-border energy expertise.

- Matthias is a partner in the International Energy & Utilities Sector Group at our Düsseldorf office.
- He advises German and international clients on energy, regulatory, and environmental law as well as issues arising from public commercial law. He has additional expertise in corporate law, administrative, European and real estate law, as well as standardisation.
- Matthias advises on infrastructure projects involving conventional and renewable energy generation as well planning and permit procedures for extra high voltage lines and other industrial installations. He has worked on numerous transactions in regulated industries, including energy, healthcare, and water. His work includes representing clients before the Federal Network Agency and other authorities in diverse administrative proceedings, before national and European courts and in arbitration proceedings. With his team, he has also advised on the transposition of European law, such as ROHS or the Third Internal Market Packet.
- Matthias is a regular contributor to conventional and online legal publications. He writes the section on permits for conventional power plants and wind farms for the "Berlin Commentary on Energy Law". He commentates on international company law in the "Beck Online Commentary on the Limited Liability Company Act". He has also published articles about renewable energy, disclosure and information obligations for sellers, buyers and banks in contaminated site transactions, on state aid to the coal sector and on the permitting regime for HVDC lines. Matthias also runs the German Energy Blog and frequently speaks at national and international seminars and conferences

Matt Bonass
Partner

Matt is recognised as a leading corporate finance and energy lawyer.

- Matt is a partner in the Corporate Group based in London. He specialises in public and private mergers and acquisitions (M&A), private equity, joint ventures and equity capital markets work, particularly in relation to the Alternative Investment Market and the Main Market of the London Stock Exchange.
- He has particular expertise in the energy sector (both traditional oil and gas, electricity and mining, as well as renewable energy and utilities and cleantech) throughout the UK, Europe, the Middle East, Asia and the US. He has advised governments, trading exchanges, financial institutions, venture capital and private equity houses, early stage cleantech companies and major corporations on transactions in the oil and gas, and electricity sectors and in the wind, solar, wave, biomass, biofuels, waste to energy, energy efficiency and carbon sectors.
- Matt is, and has been, recognised for a number of years as a leading individual in Chambers and Legal 500 legal directories in the fields of corporate and energy. Together with Michael Rudd, he has co-edited a book entitled "*Renewables: A Practical Handbook*" (Globe Law and Business).



Back-up
2. Nuclear Power

2. Energiewende - Background -

Biblis Case (1)

- Shut down of two Biblis nuclear power plants for 3 months issued on 18 March 2011 in the wake of the 3-month nuclear power moratorium
- In April 2011 RWE filed law suits, initially aimed against the 3-month shutdown orders
- 27 February 2013 decision of Higher Administrative Court of Hesse (Hessischer Verwaltungsgerichtshof)
  - RWE not been properly heard before the shutdown orders were issued
  - unlawful on substantive grounds as requirements of Section 19 para. 3 AtG not met
  - authority (Environment Ministry) had not made proper use of its discretion
  - shutdown order itself was disproportionate
  - In a nutshell: shutdown order very unlawful

2. Energiewende - Background -

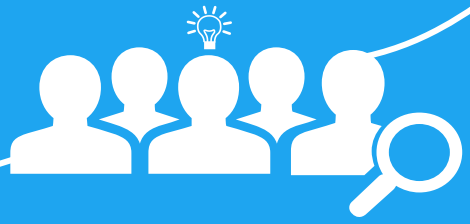
Biblis Case (2)

- Decision of Federal Administrative Court (BVerwG) 20 December 2013
- Dismissed appeals by the State of Hesse
- Appeals were dismissed since the State of Hesse did not submit a convincing justification why RWE had not been heard prior to the shutdown orders
  - Independent of (all) the other reasons why the orders were considered unlawful by the Higher Administrative Court of Hesse, the procedural flaw of not having heard the operator before the preliminary shutdown orders in itself justified the judgements
- Scathing rulings of Hessischer Verwaltungsgerichtshof on the illegality of the Biblis shutdown orders have thus become final
- Cases do not address damages, will have to be decided by an ordinary court

2. Energiewende - Background -

Constitutional Proceedings against Reversal of Operating Time Extension

- BVerfG cases brought by RWE, E.ON and Vattenfall
  - Ref. No. 1 BvR 2821/11, 1 BvR 321/12, 1 BvR 1456/12 and others
- Was on BVerfG list of cases for 2013
  - Possibly hearing in autumn 2014, decision early 2015?
- Constitutional complaint does not cover damages
  - In principle no damages for legislative wrongdoing
  - Determination of content and limits requiring compensation (*ausgleichspflichtige Inhalts- und Schrankenbestimmung*)?



Back-up
3. EEG 2.0 Legislative Procedure

3. Overview EEG 2014 - Legislative Procedure -

Key Point Paper 22 January 2014

- Cabinet retreat in Meseberg, political consent lead to further clarification on key points of the EEG revision, supplementing details to coalition agreement

Cabinet Decision 8 April 2014

- *Bill for a fundamental reform of the EEG and amendment of further regulations of energy law*
- Does not contain provisions regarding energy and trade intensive companies (Sec. 60 ff. EEG are missing)

Cabinet Decision 7 May 2014

- Bill for reform of the special equalisation scheme for energy and trade intensive companies
- Draft complements the bill amending the EEG, based on Commission's state aid guidelines for assessing public support projects in the field of energy and the environment for 2014 - 2020, published on 9 April 2014

3. Overview EEG 2014 - Legislative Procedure -

First Round Federal Council (Bundesrat) 23 May 2014

- Comprehensive request of the Bundesrat committees to amend the draft bills
- Requested changes covered inter alia:
  - Changes of support thresholds and de minimis clauses
  - Reducing cuts, and
  - Extending deadlines

First Round Decisions Bundesrat 23 May 2014

- Bundesrat proposed nineteen amendments of EEG and adopted four resolutions, including objections against mandatory auctioning
- Bundesrat proposed eight amendments and adopted two resolutions for the Special equalization scheme, including compensation for higher EEG surcharge for railways

3. Overview EEG 2014 - Legislative Procedure -

Bundestag's Economic Affairs and Energy Committee, 25 June 2014

- Last minutes changes to EEG 2.0 Refrom bills to meet concerns by the EU Commission,
- CDU/CSU parties and their Social Democrat allies (SPD) agreed to amend the EEG 2.0 bills, inter alia:
  - **EEG Surcharge for Imported Renewable Power**: future tenders to establish the scope of financial support under the EEG that shall be carried out by 2017 at the latest shall be open to power from European countries, covering at least 5% of newly installed capacity
  - **Own Consumption of Power by Operators:** Uniform 40% surcharge for all new power plants, but 100% surcharge for all new power plants that are not renewable power plants or highly efficient CHP plants
  - **Special Equalisation Scheme**

3. Overview EEG 2014 - Legislative Procedure -

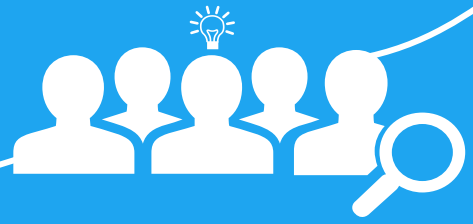
Bundestag's vote 27 June 2014

- Bundestag voted in favour of EEG 2.0

Bundesrat's decision 11 July 2014

- In its last session before the summer recess, Bundesrat followed the vote of the Bundestag. Even though the Federal States (Länder) criticized various aspects of the EEG revision – such as shortcomings for the biomass industry - they decided in today's session not to appeal the Mediation Committee (Vermittlungsausschuss).

Enter into force: 1. August 2014



Back-up
4. EEG 2.0: Other Issues

4. Overview EEG 2014 - Register of Installations -

New EEG Provisions on "Register of Renewable Energy Installations"

- Shall assist in monitoring compliance with the aims and principles of the EEG 2014, in particular the expansion corridors and caps for onshore and offshore wind power, solar power and biomass
- Register shall be set up and kept by the Federal Network Agency
- Draft for an Ordinance on a Register of Installations for Generation of Electricity from Renewable Energies and Mine Gas – Installation Register Ordinance (Entwurf einer Verordnung über ein Register für Anlagen zur Erzeugung von Strom aus erneuerbaren Energien und Grubengas Anlagenregisterverordnung/AnlRegV)
- Draft contains several information obligations for operators of renewable energy plants (such as installed, capacity, energy source, commissioning date, and many more)

4. Overview EEG 2014 - Energy Intensive Companies -

Thresholds for Limiting EEG Surcharge

- The EEG surcharge has to be paid in full for the first 1 GWh (presently 6.24 ct/kWh)
- For consumption exceeding 1 GWh, the EEG surcharge amounts to 15%,
  - with at cap at 4% of gross value added (GVA) if the electro-intensity (electricity costs divided by undertaking's gross value added) of an undertaking amounts to less than 20%
  - A cap at 0.5% of GVA applies if the respective electro-intensity is higher than 20%
- These reductions for consumption exceeding 1 GWh only apply to the extent that the individual EEG surcharge payable is no less than 0.1 ct/kWh (cf. Section 61 para. 2 EEG 2014)

4. Overview EEG 2014 - Energy Intensive Companies -

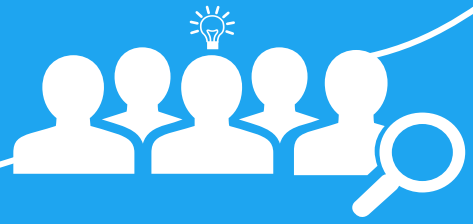
Hardship Clause

- A hardship clause, which is unlimited in time, applies to undertakings
  - that were granted EEG surcharge reductions in 2014, but which will no longer be eligible under the EEG 2014
  - They will have to pay the EEG surcharge in full for the first 1 GWh.
    - Beyond 1 GWh they have to pay 20% of the EEG surcharge with no further reduction
    - The clause applies in the following three cases:
      - Undertakings not listed in Annex 4
      - Undertakings covered by Annex 4, list 1 whose electro-intensity amounts to 14% (the previous threshold), but not to 16% respectively 17% of GVA;
      - Undertakings covered by Annex 4, list 2 whose electro-intensity does not amount to 20% of GVA

4. Overview EEG 2014 - Cost Effects? -

EEG 2014 Intention to Cut Support Costs

- E.g. by deleting bonuses for wind power and biomass power plants
- Initially the government wanted to reduce costs from an average financial support across all technologies of 17 ct/kWh under the currently applicable EEG to 12 ct/kWh for new installations by 2015
- Concessions made by the government to the federal states shall amount to 0.2 ct/kWh by 2020 (Gabriel)
- Whether the EEG reform will be enough to stabilize the EEG surcharge on the current level (6.24 ct/kWh) for the long-term is doubtful
  - Centre for European Economic Research (ZEW) reportedly expects the EEG surcharge to rise to 8.3 ct/kWh within five years
  - Minister Gabriel reportedly believed that with the current reform, the EEG surcharge could at least remain stable until 2017



Back-up
5. Energiewende Facts & Figures

5. Energiewende
- Use of wind energy 2012 -

Abb. 15: Nutzung der Windenergie 2012 Jahresvollaststunden

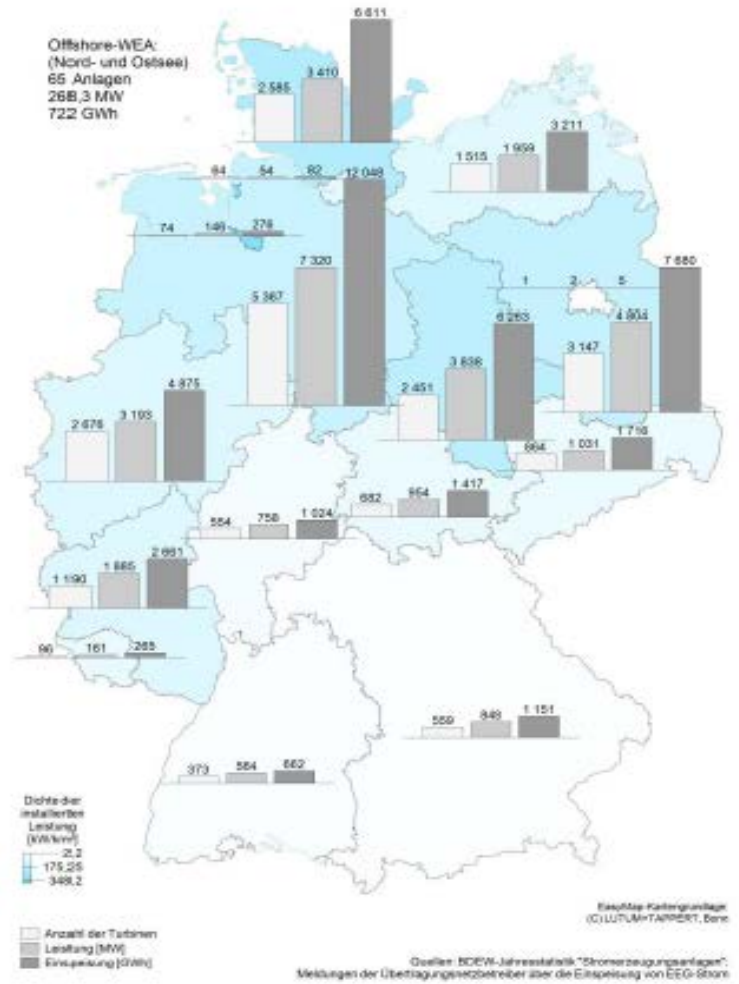


Abb. 14: Nutzung der Windenergie 2012: Anzahl, Leistung, Erzeugung

Source: BDEW, status: 2013/10

5. Energiewende
- Use of Photovoltaic 2012 -

Abb. 17: Nutzung der Photovoltaik 2012: Jahresvollaststunden

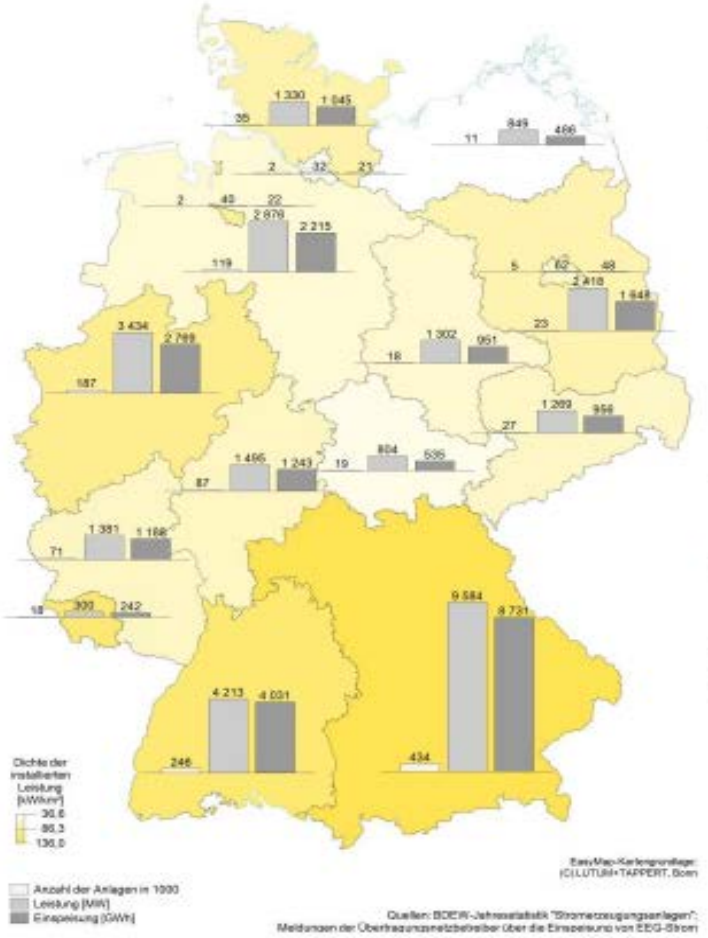


Abb. 16: Nutzung der Photovoltaik 2012: Anzahl, Leistung, Erzeugung

Source: BDEW, status: 2013/10

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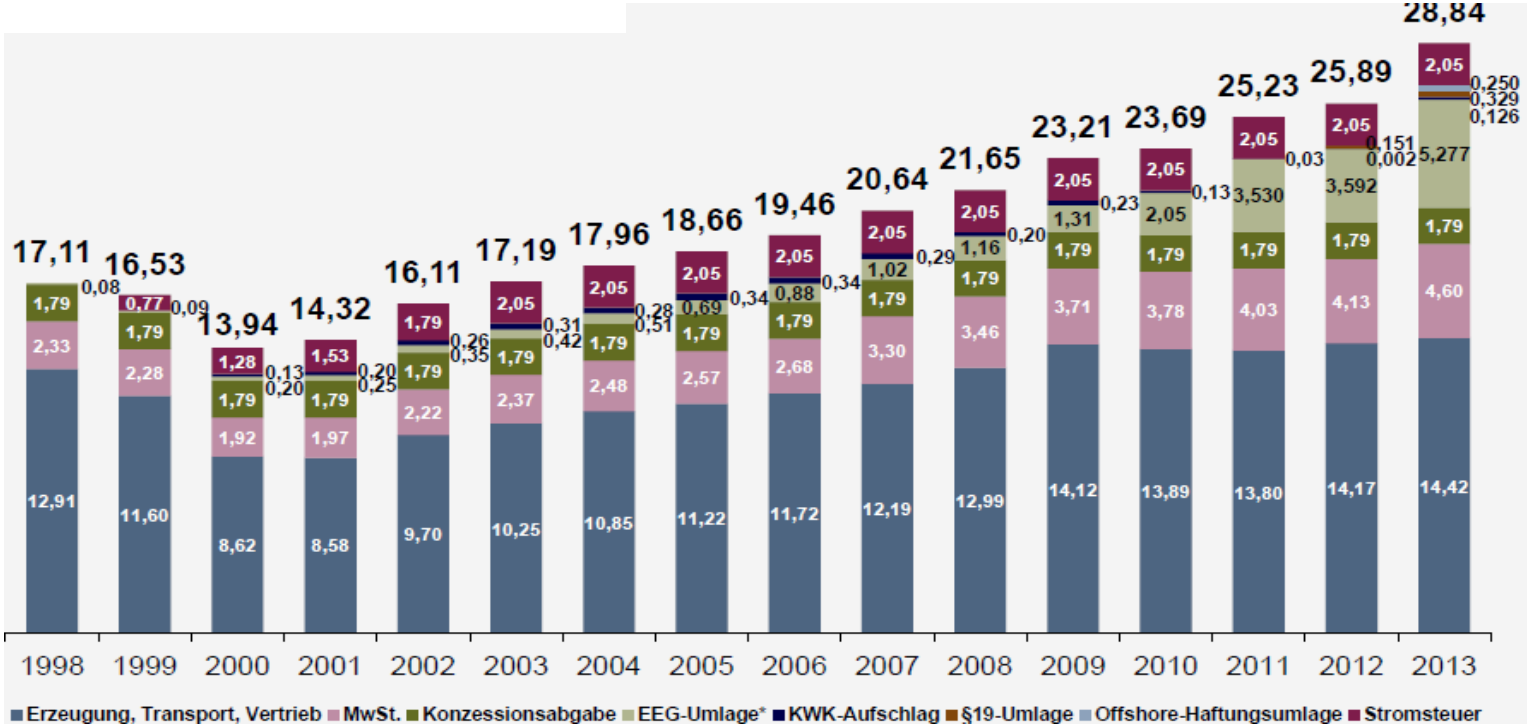
5. Energiewende - Facts & Figures -

Electricity price for households

- Average electricity price of a three-person household in ct/kWh
- Annual consumption of 3.500 kWh

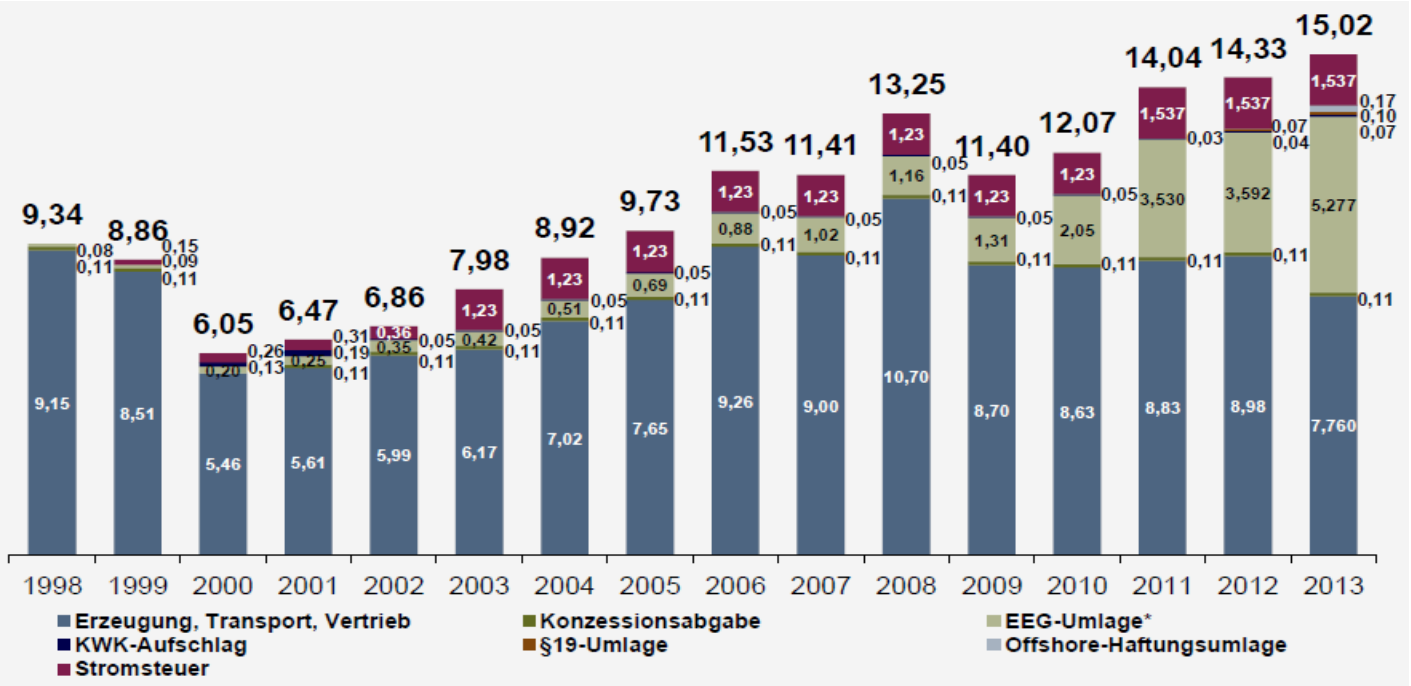


Source: BDEW, status: 2013/10

5. Energiewende - Facts & Figures -

Electricity price for industry (including electricity tax)

- Average electricity price for industry in Cent/kWh (including electricity tax)
- Annual consumption 160 to 20.000 MWh (Medium voltage supply; purchase 100kW/1.600h to 4.000kW/5.000h



Source: BDEW, status: 2013/10

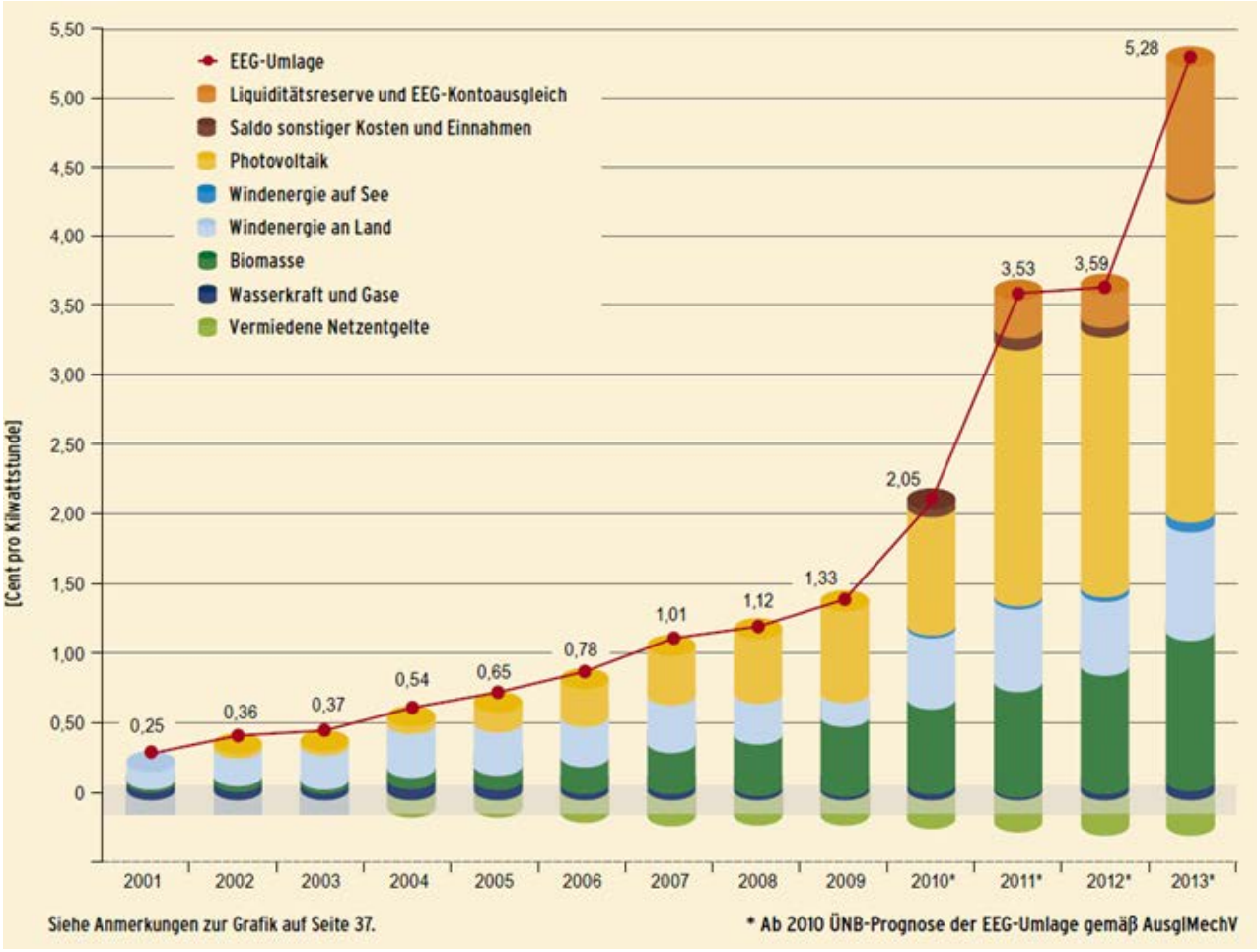
Bird & Bird

5. Energiewende - Facts & Figures

Increase of EEG surcharge

- Current EEG surcharge amounts to 6.28 ct/kWh
- Increase due to enormous expansion of solar energy

Source: BMU
http://www.erneuerbare-energien.de/fileadmin/Daten_EE/Dokumente__PDFs_/ee_in_zahlen_bf.pdf



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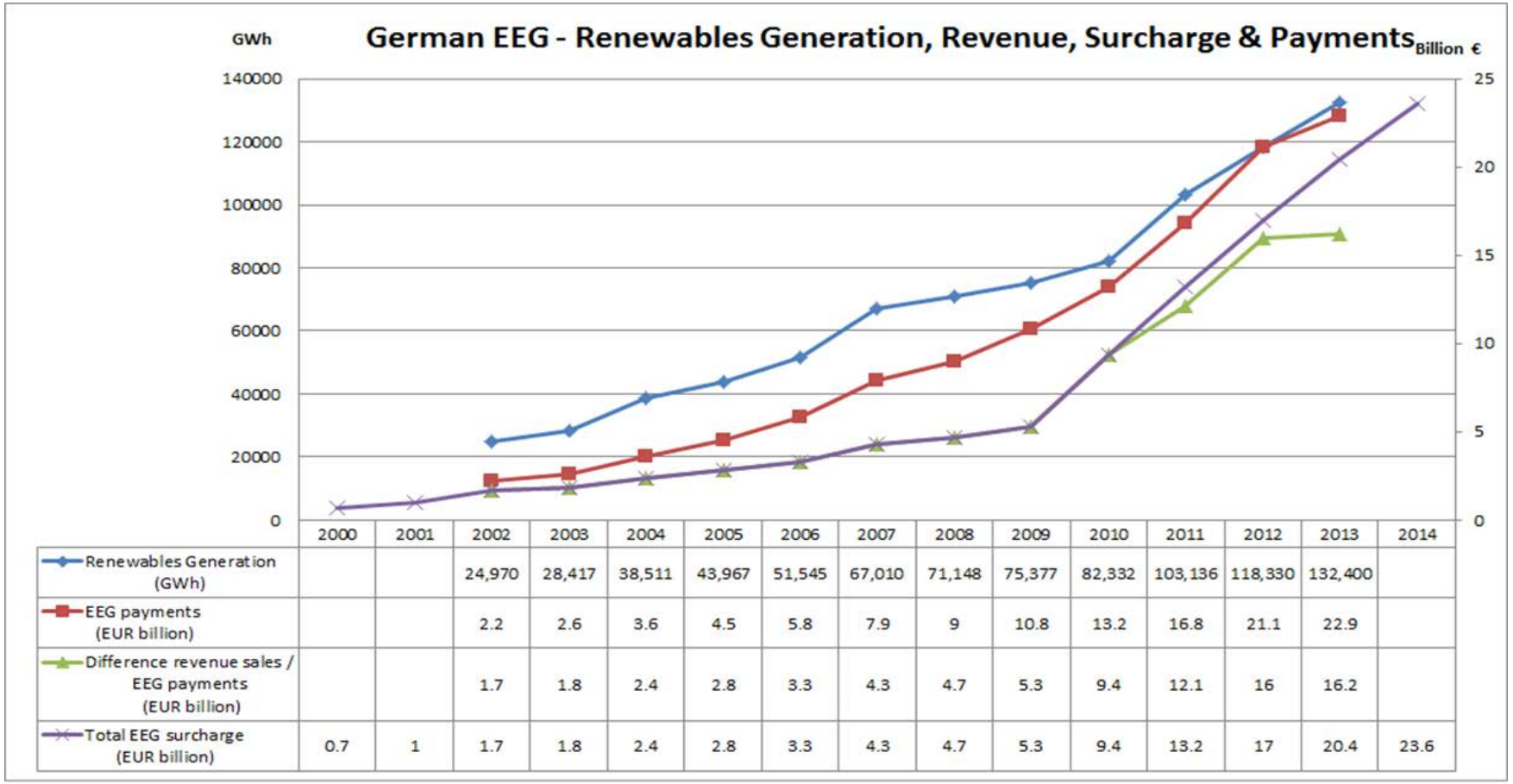
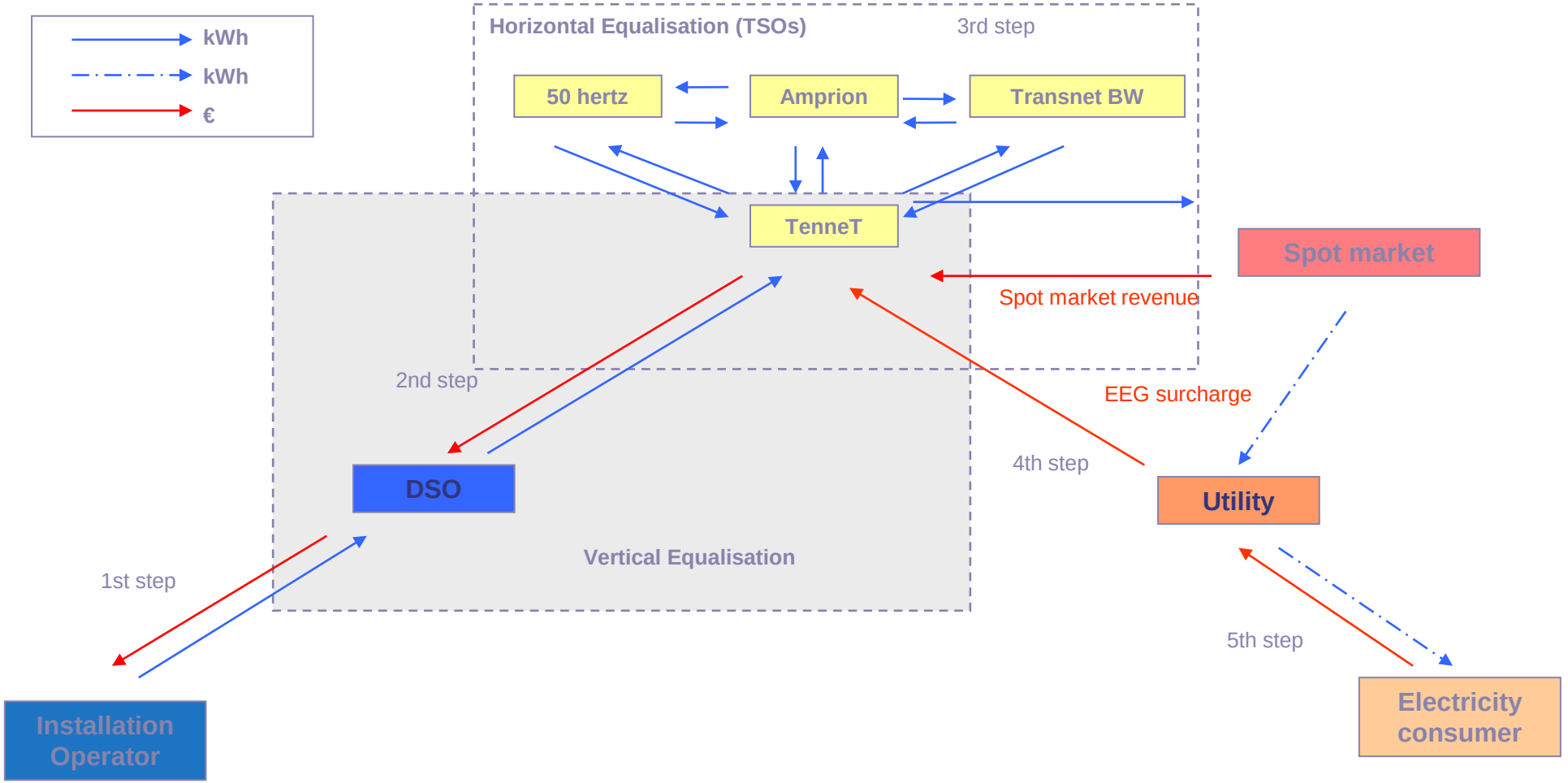
5. Energiewende
- Development of EEG Surcharge -



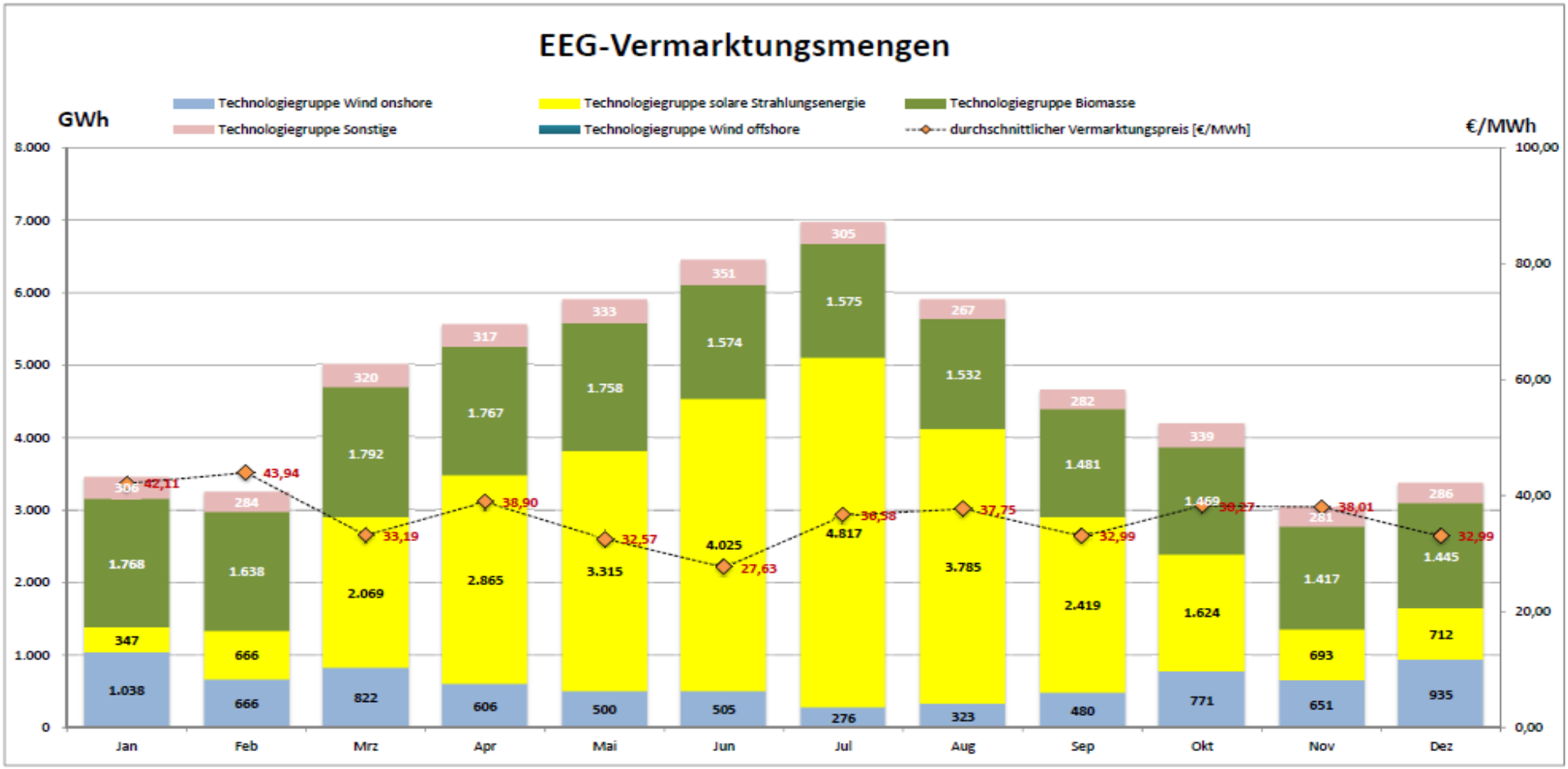
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Renewables Generation (GWh)			24,970	28,417	38,511	43,967	51,545	67,010	71,148	75,377	82,332	103,136	118,330	132,400	
EEG payments (EUR billion)			2.2	2.6	3.6	4.5	5.8	7.9	9	10.8	13.2	16.8	21.1	22.9	
Difference revenue sales / EEG payments (EUR billion)			1.7	1.8	2.4	2.8	3.3	4.3	4.7	5.3	9.4	12.1	16	16.2	
Total EEG surcharge (EUR billion)	0.7	1	1.7	1.8	2.4	2.8	3.3	4.3	4.7	5.3	9.4	13.2	17	20.4	23.6

Source: EEG Keypoint-paper

5. Energiewende
- EEG Surcharge Reallocation System -



5. Energiewende
- Renewables in 2013 -



Source: http://www.netztransparenz.de/de/EEG-Konten-Übersicht.htm

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5. Energiewende
- Renewable Surcharge Account -

Balance Sheet: EEG Revenues and Costs in 2013

Einnahmen [€] im jeweiligen Monat in 2013

	Jan	Feb	Mrz	Apr	Mai	Jun	Jul	Aug	Sep	Okt	Nov	Dez	Gesamtjahr
Einnahmenpositionen gemäß § 3 Abs. 3 AusglMechV													
1. Einnahmen aus vortäg.+untertäg. Vermarktung nach § 2	145.689.928,98	142.980.235,20	166.050.312,05	216.078.627,01	192.369.801,35	178.361.672,24	255.092.940,97	222.982.224,94	153.811.874,98	160.893.410,76	115.639.030,57	111.439.893,69	2.061.389.952,74
davon Einnahmen day-ahead	145.689.928,98	142.980.235,20	166.050.312,05	216.078.627,01	192.369.801,35	178.361.672,24	255.092.940,97	222.982.224,94	153.811.874,98	160.893.410,76	115.639.030,57	111.439.893,69	2.061.389.952,74
davon Einnahmen intraday	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
2. Einnahmen aus Zahlungen der EEG-Umlage	1.207.247.886,97	1.810.855.276,49	1.750.425.330,56	1.779.560.317,25	1.646.515.322,12	1.596.633.865,45	1.550.536.990,58	1.568.817.098,27	1.566.928.841,41	1.560.651.556,16	1.646.561.694,93	1.641.571.312,83	19.326.305.493,02
davon Anteil Liquiditätsreserve [1]	33.273.257,46	143.440.876,55	138.654.119,42	140.961.950,47	130.423.233,78	126.472.040,13	122.820.629,54	124.268.627,45	124.119.055,47	123.621.821,20	130.426.907,05	130.031.610,53	
2a. Einnahmen nach § 35 (2) EEG	10.737.595,60	9.142.539,81	8.399.026,20	9.423.985,38	14.789.505,23	18.986.452,36	19.406.809,04	26.388.037,00	17.984.618,54	16.480.888,42	14.774.614,78	13.180.809,26	179.694.881,62
3. Einnahmen aus Zinsen nach § 3 (5) Satz 2	9.171,20	11.196,64	32.567,25	30.798,44	25.605,20	29.488,13	20.096,32	39.217,83	28.725,63	36.833,26	11.451,98	13.357,64	288.509,52
4. Einnahmen aus Abrechnung EEG-BK	380.316,32	2.084.459,15	708.561,15	245.247,03	434.036,49	5,57	0,00	0,00	0,00	23,74	28.079,23	81.719,94	3.962.448,62
5. Einnahmen entspr. § 35 (4) + § 38 EEG, § 3 (6) MechV	-1.140.815,69	4.270.387,14	13.176.255,58	-1.690.750,96	4.726.370,85	2.807.530,58	6.441.027,33	1.982.404,56	218.679.377,38	17.362.971,17	2.965.806,34	2.497.417,29	272.077.981,57
Einnahmenpositionen gemäß § 6 Abs. 3 AusglMechAV													0,00
1a. Einnahmen aus Zinsen, wenn tats.Zins höher als Sollzins	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
Differenzbeträge EEG-Umlage (§ 6 Abs. 3)	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
Gesamt [€]	1.362.924.083,38	1.969.344.094,43	1.938.792.052,79	2.003.648.224,15	1.858.860.641,24	1.796.819.014,33	1.831.497.864,24	1.820.208.982,60	1.957.433.437,94	1.755.425.683,51	1.779.960.677,83	1.768.784.510,65	21.843.719.267,09

Ausgaben [€] im jeweiligen Monat in 2013

	Jan	Feb	Mrz	Apr	Mai	Jun	Jul	Aug	Sept	Okt	Nov	Dez	Gesamtjahr
Ausgabenpositionen gemäß § 3 Abs. 4 AusglMechV													
1. Vergütungszahlungen nach § 16 oder § 35 EEG	385.734.161,59	629.992.538,88	583.851.488,14	1.432.450.013,50	1.554.099.878,72	1.645.079.357,52	2.109.118.507,96	1.810.967.981,35	1.096.937.886,86	594.642.033,88	582.889.941,52	570.049.731,89	12.995.813.521,81
1a. Prämienzahlungen nach § 33g, § 33i, § 35 (1a) EEG	530.746.782,92	478.069.598,71	365.492.158,50	484.929.036,15	401.872.725,53	520.419.387,41	525.906.138,28	513.089.028,13	512.339.773,53	417.831.111,82	589.618.193,19	516.557.277,54	5.856.871.211,71
1b. Zahlungen nach § 35 Abs. 1b EEG	13.815,27	1.026,32	902.502,92	333.907,06	792.978,42	223.532,18	802.960,46	779.905,40	918.114,36	1.580.304,44	1.618.000,90	5.844.173,05	13.811.220,78
2. Rückzahlungen nach § 3 (6) AusglMechV	0,00	84.341,45	0,00	0,00	0,00	0,00	0,00	0,00	234.844.730,17	-72.477,37	0,00	0,00	234.856.594,25
3. Zahlungen für Zinsen nach § 3 (5) Satz 2 AusglMechV	1.580.364,61	1.448.071,90	644.818,62	580.527,46	65.593,02	192.426,22	324.498,53	455.383,64	909.822,01	1.364.635,36	669.969,63	296.203,38	8.532.314,38
4. notwendige Kosten für den untertägigen Ausgleich	1.827.283,53	5.378.553,62	6.316.220,22	11.710.931,00	11.544.783,82	9.759.659,36	10.922.704,50	8.147.248,85	3.809.274,20	2.116.038,80	3.131.040,72	5.410.320,48	80.074.059,10
5. notwendige Kosten aus Abrechnung EEG-BK	15.373.009,46	7.612.003,55	3.311.008,53	2.077.915,55	5.779.653,12	13.486.765,07	19.821.951,85	22.989.371,12	11.708.975,21	16.068.539,88	10.838.580,12	7.598.549,02	136.666.322,48
6. notw. Kosten f. Erstellung vortäg. + untertäg. Prognosen	4.325,65	14.994,25	11.394,25	11.394,25	11.394,25	11.394,25	18.462,85	7.925,65	11.394,25	18.462,85	4.325,65	11.394,25	136.862,40
7. notw. Kosten Einrichtung + Betrieb Anlagenregisters [2]	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
Ausgabenpositionen gemäß § 6 Abs. 1, 3 und § 8 Abs. 4, 5 AusglMechAV													
1. notw. Kosten f. Börsenzulassung + Handelsanbindung	1.986.033,47	208.536,84	208.446,04	356.205,31	392.699,23	397.724,93	469.689,47	1.045.650,01	445.156,29	1.114.415,35	-960.789,27	-6.626.447,17	-962.679,50
2. notw. Transaktionskosten für Erfassung Ist-Werte, Abrechnung, HoBA	2.755,52	486,70	567,30	1.034,84	563,20	583,04	1.032,79	1.119,44	712,66	2.296,63	787,56	1.517,09	13.458,77
3. notw. Kosten für IT-Infrastruktur, Personal, Dienstleistungen	403.037,50	417.796,64	367.075,11	377.378,73	370.031,76	375.123,59	450.610,55	468.307,46	998.423,85	413.075,33	916.268,40	526.294,95	6.083.423,87
4. notwendige Kosten für Prognose und Ermittlung EEG-Umlage	66.421,49	25.854,27	65.481,40	35.363,37	210.063,52	95.624,09	170.833,96	99.479,79	175.370,33	157.110,20	16.867,86	93.760,53	1.212.230,81
5. notwendige Sollzins-Zahlungen (Differenz zu Euribor+0,3)	386.336,11	282.164,38	140.944,31	100.127,19	63.320,12	70.194,32	62.847,80	92.119,95	165.456,84	186.583,40	161.904,64	2.752.331,28	4.464.330,34
6. notwendige Kosten für Habenzins-Abweichungen (Differenz zu Euribor+0,3)	2.162.989,34	97.127,73	79.357,66	2.081.445,95	14.263,25	17.866,02	730.130,09	2.182,79	1.814.229,23	2.635.395,57	21.210,00	-2.654.982,90	7.001.214,73
7. notwendige Zahlungen für Kreditlinien-Bereitstellung	686.187,50	368.237,42	1.408.244,73	711.825,42	537.277,79	1.424.887,14	10.319.780,94	489.167,20	-277.640,72	763.996,10	481.080,07	538.371,59	17.451.415,18
8. Bonuszahlungen nach § 7 Abs. 7 bis 9 AusglMechAV	1.320.961,30	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	1.320.961,24	15.851.534,94
Ausgaben nach § 6 Abs. 3 AusglMechAV	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
Ausgaben nach § 8 Abs. 4 i.V. mit Abs. 5 AusglMechAV	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00	0,00
Gesamt [€]	942.294.465,26	1.125.322.293,90	964.120.668,97	1.937.078.067,02	1.977.076.186,99	2.192.875.486,38	2.680.441.111,27	2.359.955.832,02	1.866.122.640,31	1.040.142.485,48	1.190.728.342,23	1.101.719.456,22	19.377.877.036,05

Saldo des jeweiligen Monats (Einnahmen - Ausgaben)

Saldo [€]	420.629.618,12	844.021.800,53	974.671.383,82	66.570.157,13	-118.215.545,75	-396.056.472,05	-848.943.247,03	-539.746.849,42	91.310.797,63	715.283.198,03	589.252.335,60	667.065.054,43	2.465.842.231,04

Kontostand zum 31.12.2012:

-2.691.166.648,46

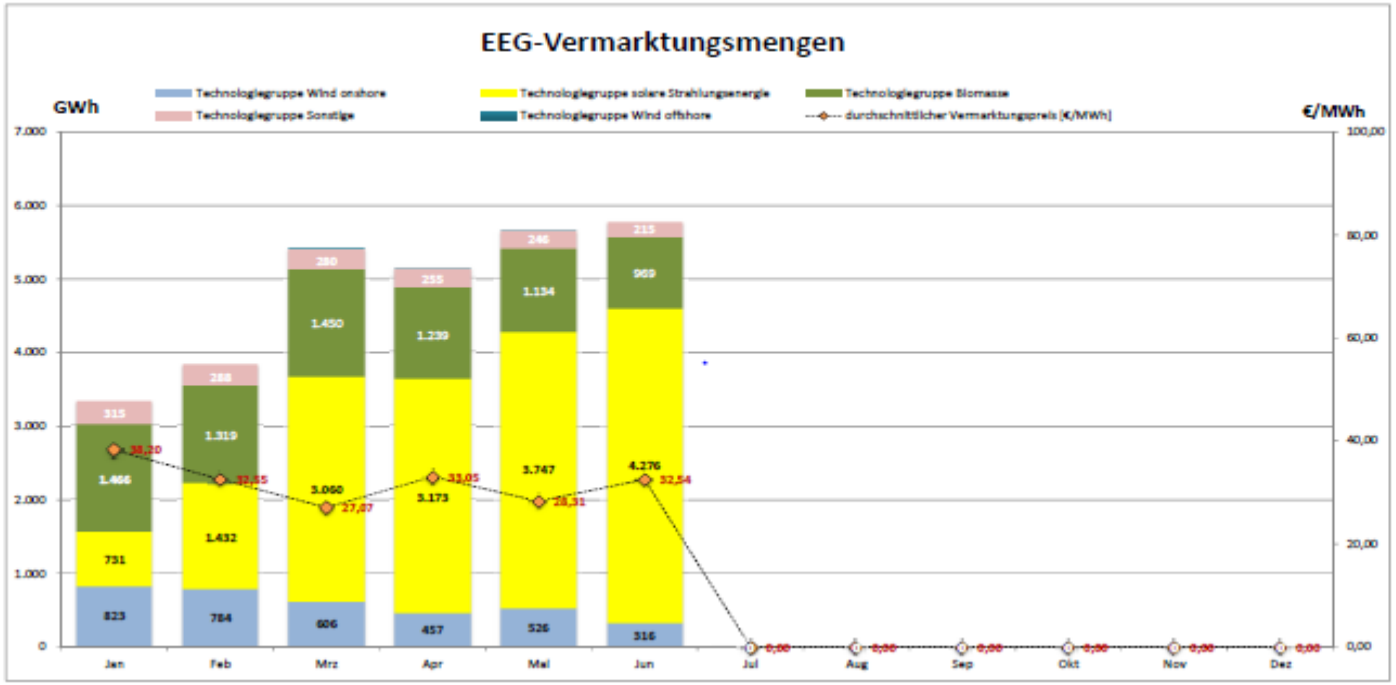
Kontostand (Monatsende)

Kontostand [€]	-2.270.537.030,34	-1.426.515.229,81	-451.843.845,99	-385.273.688,86	-503.489.234,61	-899.545.706,66	-1.748.488.953,69	-2.288.235.803,11	-2.196.925.005,48	-1.481.641.807,45	-892.389.471,85	-225.324.417,42	

1) Der Umlageanteil 2013 aus Liquiditätsreserve beträgt nach Folie 29 aus *"Konzept zur Prognose und Berechnung der EEG-Umlage 2013 nach AusglMechV"* (s. www.eeg-kwk.net) 4,18 €/MWh. Mit Bezug auf die gesamte EEG-Umlage ergibt sich ein Anteil von: 4,18/52,77 = 7,921167 %.
Im Monat Januar ist noch der Liquiditätsanteil 2,576 % aus Umlage 2012 enthalten.
2) ... sofern die ÜNB zum Betrieb des Anlagenregisters verpflichtet worden sind.

Source: http://www.netztransparenz.de/de/EEG-Konten-Übersicht.htm

5. Energiewende
- Renewables first half 2014 -



Vermarktungsmengen nach § 7 (1) Nr. 2 AusglMechV

[GWh]	Jan	Feb	Mrz	Apr	Mai	Jun	Jul	Aug	Sep	Okt	Nov	Dez	Gesamtjahr
Die am vortägigen Spotmarkt einer Börse vermarkteten Strommengen [GWh]													
Technologiegruppe Wind onshore	823	784	606	457	526	316							3.513
Technologiegruppe Wind offshore		2	13	12	10								
Technologiegruppe solare Strahlungsenergie	731	1.432	3.060	3.173	3.747	4.276							16.419
Technologiegruppe Biomasse	1.466	1.319	1.450	1.239	1.134	969							7.576
Technologiegruppe Sonstige	315	288	280	255	246	215							1.599
Summe	3.335	3.824	5.409	5.136	5.663	5.776							29.144
durchschnittlicher Vermarktungspreis [€/MWh]	38,20	32,55	27,07	33,05	28,31	32,54							

Back-up
6. European Law

6. EEG and European Law - EEG Reform in European Context -

European Law Aspects

- EEG reform is “embedded in the European context”
- German Federal Government supports internal EU legally binding climate target of at least 40% by 2030, within a target triad of greenhouse gas reduction, renewable energies and energy efficiency
- EEG revision took place in parallel with the revision of the European state aid provisions regarding support of renewable energies
- German Government
  - Upheld view EEG not state aid
  - Considers important concerns of the European Commission, e.g. better market integration of renewables, also to be in the national interest
  - Considered it necessary that European legal framework shall be developed in such a way that also in the future competitiveness of electricity intensive industries shall be ensured

6. EEG and European Law - Essent Belgium (C-204/12) -

Flemish Green Certificate/Quota Model

- Obligation on suppliers of electricity to final customers connected to distribution or transmission network, to submit a certain number of green certificates annually to the Regulatory Authority
- Regulatory Authority cannot or will not take into account any guarantees of origin originating from Norway and the Netherlands
- Compatible with Article 34 TFEU/Article 11 EEA Agreement (quantitative restrictions on imports and all measures having equivalent) and/or Article 18 TFEU/Article 4 EEA Agreement (discrimination on grounds of nationality)?
- Opinion Advocate General Yves Bot 8 May 2013: Incompatible!
  - No PreussenElektra (C-379/98) justification
  - No environmental justification

6. EEG and European Law - The November 2013 Package -

Comprehensive guidance on state intervention in electricity markets

- Press release (3 pages)
- Question and answers (4 pages)
- Communication on delivering the IEM and making the most of public intervention (19 pages)
- Guidance on generation adequacy (CRMs) (36 pages)
- Guidance on renewables support mechanisms (34 pages)
- Guidance on RES cooperation mechanisms (78 pages)
- Guidance on incorporating demand side flexibility, in particular DSR (15 pages)

http://ec.europa.eu/energy/gas_electricity/internal_market_en.htm

"If public interventions are not carefully designed, they can severely distort the functioning of the market and lead to higher energy prices both for households and businesses. The aim of this Communication is therefore to give the Member States the necessary information, guidance and best practice in hand to make good choices for their national schemes"

European Commission press release

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6. EEG and European Law - More Market-Based Regimes -

Reforming the design of renewables support

- Financial support limited to what is necessary
- Support should be flexible and respond to market and technology developments (eg. falling production costs)
- No unannounced or retroactive changes – investors' legitimate expectations should be respected
- Coordination of RES strategies to keep costs low
- Specifically
  - more market exposure, through competitive allocation mechanisms (auctions and tenders)
  - phase out feed-in tariffs (fixed) to feed-in premiums (premium on top of market price)
  - non-discriminatory NCs
  - Europeanisation of support

6. EEG and European Law - Generation Adequacy -

Detailed checklist for minimising distortion

- Objective assessment of generation adequacy
  - take into account EU policy, cross-border dimension
  - include reliable data on wind and solar, and potential of DSR
- Remove distortions that prevented market from delivering incentives
  - regulated prices, existing support schemes,
  - lack of effective balancing and ancillary services markets
- Assessing costs and benefits
  - assessment against value of lost load
  - assessment against other options, including DSR and interconnection
- Careful choice of capacity support measure
- Design features
  - technologically neutral, time-bound, open to cross-border participation and non-distortive of competition

6. EEG and European Law - RES Cooperation Mechanisms -

Maximising benefits from cross-border trade

- Statistical transfers – Article 6
- Joint projects – Articles 7-10
- Cooperation between Member States – Articles 7 and 8
- Cooperation with non-Member States – Articles 9 and 10
- Joint support schemes – Article 11
- Detailed checklists, guidance and notification forms
- The largest part of the package, but the one that has received least coverage
- Only one scheme (NO-SE joint support scheme) to date

6. EEG and European Law Demand Response

Increasing RES integration and reducing customer costs

- Commission estimates that controllable load in EU is at least 60 GW - equivalent to total installed capacity of 2 mid-sized Member States
- IEM must treat DSR equally
- Need for market-based and transparent mechanisms
- Guarantee of data security and protection
- Roll-out of smart metering

Back-up

7. Highlights of Developments in Some European Countries

7.2 Spain
Recent Developments

7.2 Spain
- New Spanish Power Act -

Main novelties of the new Spanish Power Act

- The new Power Act (Law 24/2013, dated 26 December 2013) has introduced the *"economic sustainability and budgetary balance principle"*: an increase of costs of the electricity system or reduction of revenues shall be accompanied by an equal reduction in other costs.
  - Consumers generating electricity for self-consumption, if connected to the power grid, are required to pay access toll also for the electricity self-produced and not only for the electricity acquired from the grid.
  - A new methodology for the calculation of the electricity price applicable to consumers of low voltage electricity has been introduced: the so-called "*voluntary price for the small consumers*".
  - From now on, the cost of energy that customers pay on their bills is set by the daily electricity market. Mechanisms must be set up for suppliers to have incentives to buy energy at the lowest possible price.

7.2 Spain
- New Regime for Renewables -

Background

- Under the former Special Regime, renewable energy and cogeneration facilities were entitled to receive feed-in tariff or the market price plus a regulated premium.
- On 12 July 2013, the Spanish Council of Ministers approved a package of urgent legislative measures aimed at removing the Spanish electricity tariff deficit.
- On 13 July 2013, the Spanish Government approved Royal Decree-Law 9/2013 (RDL 9/2013) which abolished the Special Regime and replaced it with a new remuneration scheme
  - Now instead of receiving feed-in tariffs calculated by reference to the amount of energy produced, renewable energy installations will receive a "***Specific Remuneration***" ("**SR**") calculated by reference to the installed capacity and exploitation costs of a "*standard facility*", not on an individual basis.

7.2 Spain
- Overview Renewables Framework -

Renewable energies legal framework at a glance

2007

RD 661/2007.

2008

RDL 1578/2008
• Creates a new feed-in tariff pre-assignment system for PV solar installations.

2009

RDL 6/2009
•Creates a new feed-in tariff pre-assignment system for the rest renewable energy technologies..

2010

RD 1003/2010
•CNE Inspections
•Traceability.

RD 1565/2010
•Introduces new technical requirements.
•Supress feed-in tariff from year 26º onwards.
•Supress feed-in tariff for installations over>50MW.

RD 1614/2010
•Introduces limits to the number of equivalent hours of production entitled to receive the feed-in tariff.

RDL 14/2010
•Extents the feed-in tariff term from 25 to 28 years.

2011

Law 2/2011
•Extents the feed-in tariff term up to 30 years for certain PV solar installations.

2012

RDL 1/2012
•Cancels feed-in tariff for new projects.

Law 15/2012
•Introduces a new tax over the electricity production (7%).
•Introduces a new tax for the use of water in hydro plants.

RDL 29/2012
•Cancels the right to receive the feed-in tariff of installations whose technical features have been unduly modified.

2013

RDL 2/2013
•Cancels the premium applied to the electricity market price.

•Modifies the feed-in tariff updating index.

RDL 9/2013
SR SCHEME

Law 24/2013:
•Obligates to support the deficit tariff.
•Obligation to support transitional deviations between income and expenses of the electric system.

2014

RD 413/2014
•Methodology for the calculation of the SR

Order 1045/2014
•Standard facilities
• Calculation of standard investments and operational costs.

Order 1168/2014
Registration of installation in new SR Register

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7.2 Spain
- New Regime for Renewables -

Main features of the new remuneration scheme (1/3):

- **RDL 9/2013** has abolished the feed-in tariff system. Instead renewable installations will receive the electricity market price plus the SR until they are capable of competing in the electricity market.
- Under the new SR scheme, renewable energy installations will be paid on the basis of their installed capacity and their exploitation costs (i.e. O&M) and not by reference to their electricity production.
- The SR includes:
  - an element related to each unit of installed capacity enough to cover the **investment costs** of a "*standard facility*" not recovered from the sale of electricity in the market; and
  - an operation element to cover the difference between the **exploitation costs** and the incomes for the participation in the electricity market of the "*standard facility*".

7.2 Spain
- New Regime for Renewables -

Main features of the new remuneration scheme (2/3):

- Calculation of the SR for each "**standard facility**" thorough its "***regulatory life term***" shall be calculated based on the following:
  - The **standard income** obtained for the sale of the electricity generated -not only future incomes, the total amount of the income received since the commissioning of the installation is included in the calculation formula -.
  - The **standard operating costs** necessary to run the installation.
  - The **standard value of the initial investment**.
- SR will be calculated by reference to a "standard facility" operated by an "*efficient and well managed business company*" and not on individual basis.
  - Calculation formula has been established in Royal Decree 413/2014
  - Categories of standard facilities and relevant economic parameters were determined by the Spanish Government in Order 1045/2014, dated 16 June 2014.

7.2 Spain
- New Regime for Renewables -

Main features of the new remuneration scheme (3/3):

- The SR shall not exceed in any case the minimum level necessary to cover the costs enabling the renewable installation to compete in the electricity market and to obtain a "**reasonable return**".
- The "reasonable return" is defined as the average return of 10- years Spanish State bonds increased by an adequate margin to be defined.
- The abovementioned parameters of the SR shall be reviewed at the end of each **regulatory period** (6 years).
- Therefore, Spain has shifted from an stable long term Feed-in tariff regime to a flexible retributive system subject to periodical revisions.

7.3 France
Recent Developments

7.3 France
- Background Feed-in Tariffs -

Photovoltaic, Feed-in Tariffs (FITs) & self-consumption

- 2 ways to be allowed to fit solar panels (French energy code):
  - Administrative authorization (principle)
  - Tender procedure (subsidiary)
- With some of the lowest electricity rates in France, "**grid parity**" has not been reached: that's why FITs have been set up, to encourage the development of the photovoltaic and to diversify the energy mix
- FIT consists in selling the surplus electricity produced back to the grid *via* a Feed-in tariff contract with EDF.

7.3 France
- Feed-in-Tariffs (FIT) -

FIT

- 20-year contract;
  - Very incentive tariff
  - Scheme funded by tax contribution to the public service charges for electricity (Contribution au service public de l'électricité, or CSPE).
- But FITs impose a heavy cost on public finances and consumers, directly and indirectly, including the costs of maintaining the grid.
- That's why the recent draft law on a new energy model seriously considers to regulate self consumption, in order to:
  - reduce reliance on the suppliers of electricity
  - reduce the pressure exerted on the grid
  - reduce the cost of CSPE

7.3 France
- Energy Transition Bill (1/2) -

The energy transition bill

- On June the 18th, French president François Hollande presented a ground-breaking law project for the energy sector. This initiative seeks to control and reduce fossil and nuclear energy production and consumption, and, at the same time, increase focus on developing alternative sources of energy.
- This ambitious goal of reforming the energy sector contains many key objectives such as controlling pollution, promoting sustainable development, encouraging the use of electric cars, renovating buildings or developing renewables energies.

7.3 France
- Energy Transition Bill (2/2) -

Main proposals of the project

- The project includes the preparation of a management plan, every five years, in order to reassess energy need and give EDF (national energy company) the chance to adjust its production. This ensures that nobody but representatives will directly decide energy policy objectives.
- Reset consumption and production objectives
  - The plan provides for:
    - a reduction in total energy consumption up to 50% for the year 2050
    - a reduction in fossil energy consumption up to 30% for the year 2030
    - and a reduction in greenhouse gas emissions up to 40% for the year 2030.
  - The project also involves the establishment of a quota of greenhouse gas emissions, called “budgets-carbone", for three five year’s periods.

7.3 France
- Development of Renewables -

Favor the development of renewable energies

- The law project will allow increasing up to 32% renewable energies consumption.
- Procedures for construction of wind and solar farms will be simplified by unique permissions system to shorten the time, up to three times longer in France than in other countries.
- Measures will enable regions and local communities to support development of these energies but also to participate in the renovation of buildings, which gather up 44% of the energy consumed in France.
  - These public entities will have the ability to act as third party investors in renovation works and to have access to the "energy transition and growth" loans provided by la Caisse de dépôts.
  - The plan offers a budget of € 400 million in 2017 to double the current heat fund, which funds the energy produced by renewable sources (wood, biomass, waste, recycling...).

7.3 France
- Further Developments (1/2) -

Promote atomic energy

- According to french government, nuclear energy is very controversial but delivers low carbon levels. That is why the project lays the objective of reducing the share of nuclear electricity production up to 50% in 2025, against 75% today.

Renovate buildings in order to reduce energy costs

- One of the project's main objectives is to compel the realization of energy renovation when refacing, roofing, orrenovating buildings. This measure will be encouraged through the provision of several financial incentives: intax relief to 30% of the amount of work carried out between 1 September 2014 and 31 December 2015, and eco-loan with zero interest from the first of July 2014.
- The plan also provides for the establishment of an "energy check" for the poorest households to pay energy suppliers or to carry out works.

7.3 France
- Further developments (2/2) -

Reduce waste and improve recycling

- The project plans to reduce to 50% the amount of waste going to landfill by 2025 (against 26.5 now) and recycle 55% of non-hazardous waste. It also promotes energy production from the recovery of non-recyclable waste (heat networks).

Make cleaner transport

- The project includes the installation of 7 million charge points for electric vehicles by 2030. A conversion bonus for the purchase of an electric vehicle in the event of disposal of a diesel vehicle is also provided. With the bonus, and under certain conditions, the amount can reach 10,000 euros. When renewing state and public institutions car fleets, one of two vehicles must be electric. To finance clean transport, local communities may seek an allocation of 5 billion euros in loans implemented by the Caisse de dépôts at the “Livret A” rate.

7.3 France
- Legislative Process -

Legislative process of Energy Transition bill

- This bill, which is only at the beginning of a long legislative process was preceded by a nine-month national debate involving businesses, NGOs, politicians, unions and many experts, with interests sometimes diametrically opposed, especially on the very thorny issue of the atom. During the preliminary discussion, the experts agreed that the energy transition will cost between 15 and 30 billion euros of additional investment each year.
- The parliamentary debate should begin in the fall.

7.3 France
- Case Law: wind power (1/4) -

Obligation to purchase wind-generated energy

- In 2000 France implemented an incentive mechanism for wind power
  - Electricity distributors are obliged to purchase wind power (produced in France) at a price higher than its market value;
  - The additional costs thus generated for distributors, are fully compensated through charges paid by the final consumers.

6 February 2009

- Action for annulment before the Conseil d'État (French Council of State) brought by the *Association Vent De Colère!* and 11 other applicants,
- Claiming that the ministerial orders laying down the conditions for the "obligation to purchase", introduce a State aid within the meaning of Article 107(1) TFEU.

7.3 France
- Case Law: Wind Power (2/4) -

- Article 107(1) TFEU on State aids:
  1. *there is an intervention by the State or through State resources*
  2. *the intervention is liable to affect trade between Member States*
  3. *it confers a selective advantage on the beneficiary*
  4. *it distorts or threatens to distort competition*
- Conseil d'État request for preliminary ruling (15 May 2012):
  - The French mechanism for offsetting in full the additional costs imposed on undertakings because of an obligation to purchase wind-generated electricity at a price higher than the market price that is financed by all final consumers of electricity in the national territory, constitutes an advantage liable to affect trade between Member States and to have an impact on competition,
  - But must it be considered an intervention by the State or through State resources within the meaning of Article 107 TFEU?

7.3 France
- Case Law: Wind Power (3/4) -

- Ruling of the Court of Justice, 19 December 2013
  - French mechanism constitutes an intervention through State resources
  - funds are channeled through the Caisse des Dépôts et consignations, designated/established by the State public body, and remain under public control, and therefore available to the national authorities.
- Ruling of the Conseil d'État, 18 May 2014
  - Annulment of the ministerial order fixing the purchase price of wind-generated electricity.
- Consequences:
  - Retroactive annulment: calling into question of purchase contracts signed since 2008 between the holder of the obligation to purchase and producers on the grounds of the annulled order.
  - Scope of the judgment: influence on other "obligation to purchase" mechanisms in the field of renewable energies.

7.3 France
- Case Law: Wind Power (4/4) -

Consequences

- The decision of Conseil d'État did not call into question the foundations of the regime providing support to the production of wind-generated energy, which is, according to the European Commission (27 March 2014), compatible with EU state aid rules.
- New ministerial order (17 June 2014)
  - laying down the same price of purchase of electricity generated by onshore wind installations
  - This price is guaranteed for a given period of time and is updated annually, based on an index of hourly labor costs and an index of producer prices.
  - New wind projects can have the same conditions of profitability
  - End of a long period of uncertainty, which destabilized the sector, in order to encourage investment and create jobs.

7.4 **Czech Republic**
Recent Developments

7.4 Czech Republic - Energy Market Overview -

State energy policy review

- The Czech Republic is an important producer of hard coal which is the main energy source for electricity production along with nuclear power as the second most important source securing production of 33% of electricity generated in the Czech Republic.
- The Czech Republic has one of the lowest energy import dependencies in the European Union (less than 50%), mainly due to domestically produced solid fuels whilst imports are limited in particular to natural gas and oils mainly from Russia and Norway.

7.4 Czech Republic - Update State Energy Policy -

New/updated of State Energy Policy (**SEP**)

- Determines the state objectives for the development of the energy sector during the next 30 years.
- Main objectives of the SEP draft are as follows:
  - Increasing role of nuclear power that should gradually substitute coal as the main energy source. Government refuses to provide any kind of state guarantees relating to further development of nuclear power (reaction to the upcoming new public tender for construction of additional nuclear blocks in the most significant Czech nuclear power plant "*Temelín*")
  - Development of economically effective renewable energy sources accompanied by gradual suspension of subsidies for new power units
  - Further exploration of energy potential of waste; Emphasis on energy savings and energy effectiveness
  - Emphasis on energy savings and energy effectiveness
  - Focus increase of energy security of Czech Republic

7.4 Czech Republic - Renewable Energy -

One single act for all supported energy sources for electricity and heat production since May 2012 ("**Act**").

- The Act introduces the following system of subsidies:
  - **Electricity** produced from renewable energy sources, etc . is supported through either a guaranteed feed-in tariff or a green bonus paid on the top of the market price ("Green bonus");
  - **Heat** production from renewable energy sources is supported through either investment support (by national or European financial funds or using proceeds from sale of emission permits) or operational support (support through the Green bonus);
  - **Biomethane** production supported through Green bonus (biomethane whose production is subject to the subsidies shall meet specific parameters stipulated by the Act);
  - **Decentralised production of electricity** supported through bonuses paid on the top of the market price;

7.4 Czech Republic - Renewable Energy -

Measures to prevent increasing costs of renewables:

- The main restrictive measures may be summarized as follows:
  - **Solar levy extension** – Electricity generated in the solar power plants placed in service from 1 January 2010 to 31 December 2010 (except power plants with installed capacity not exceeding 30 KW) is as of 1 January 2014 subject to a solar levy of 10% applicable to the support through feed-in tariffs and 11% applicable to the support through green bonuses.
  - **Termination of support for new power plants** – support of renewables will not apply to power plants placed in service after 31 December 2013, except of hydropower plants up to max. 10 MW
  - **Termination of support** for electricity or heat producers which are **joint stock companies** and did not dematerialised all their shares. The same applies to **foreign entities** who failed to present an affidavit revealing the owners of shares with the aggregate nominal value exceeding 10% of the producers registered capital, including the specification of the source on which the data on the size of the shareholders' interest is based.

7.4 **Slovakia**
Recent Developments

7.4 Slovakia
- Energy Politics -

Energy strategy until 2035

- Strategic document "Energy Politics of the Slovak Republic" defining main targets and priorities of the energetic sector until 2035 with outlook to 2050
- Strategic targets
  - low carbon energetics
  - ensuring secure, reliable and effective delivery of all forms of energy
  - for acceptable prices taking into account protection customer and sustainable development

7.4 Slovakia
- Energy Politics -

Energy Politics

- Measures to increase energy security are, among others,
  - finalization of the blocks 3 and 4 of the nuclear power plant in Mochovce
  - construction of a nuclear source in Jaslovské Bohunice
  - construction of smart grids
  - support of development of renewable sources of energy and increase in energy efficiency
- Energy from renewable sources
  - Target to increase use of renewable energy by 20% in 2030 (proportionally to the gross final energy consumption)

7.4 Slovakia - Market Developments -

Sale of Slovakia's largest electricity producer

- In July 2014 the board of directors of Enel approved sale of its 66% stake in the Slovakia´s largest electricity producer – Slovenské elektrárne
  - The other 34% stake is owned by the Slovak Republic;
  - Slovenské elektrárne owns production facilities with overall installed capacity of 5 737 MW and its EBITDA in 2013 was in the amount of EUR 708 mil. (Enel bought the 66 % stake for EUR 840 mil. in 2006).
  - Slovenské elektrárne will get a loan in the amount of EUR 870 mil. for 7,5 years from Russian Sberbank
- The companies that might be interested in buying the majority share are Czech energy company ČEZ, then Czech Energetický a Průmyslový Holding (EPH), French GDF Suez, Russian (e.g Rosatom) and Chinese investors

7.4 Slovakia
- Market Developments -

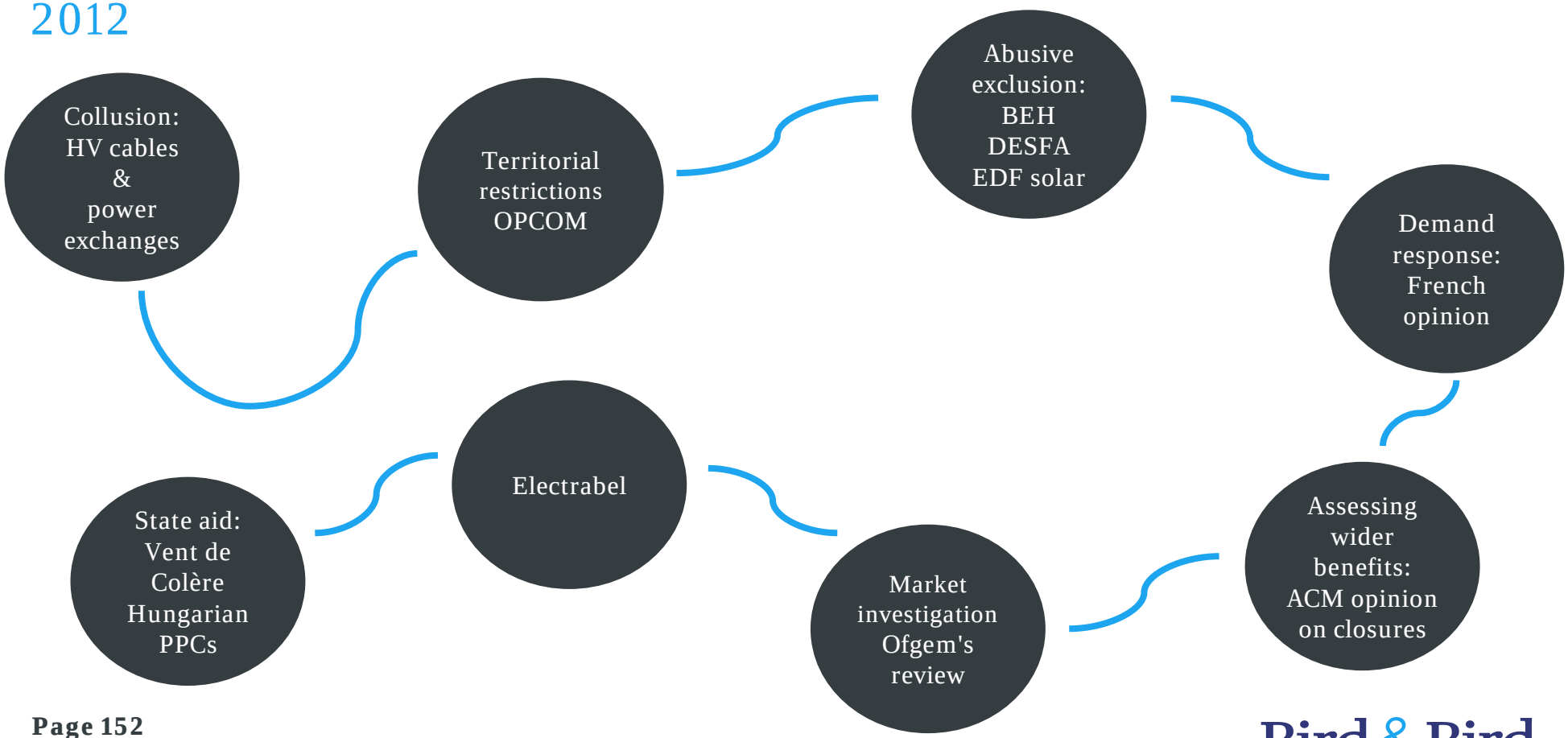
Development of transmission system

- In June 2014 SEPS, a.s., which is a Slovak company operating Slovak electricity and transmission network, published its plans for the development of the electricity transmission network until year 2023
  - SEPS, a.s. is going to invest in following 10 years ca EUR 618 mil. into several projects related to necessary increase of the existing capacities and modernisation of the main parts of the transmission network
  - New facilities will be built only on the voltage level of 400 kV – this means that even the 220 kV parts of the transmission network will be replaced only by 400 kV parts

8. European Competition Law & Energy

8. European Competition Law - Developments in the Energy Sector-

Overview: Competition developments in the energy sector since December 2012



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