

# German Energy Blog & Bird & Bird

EEG 2.0? Status update

- Main changes and challenges of the revision -

Dr. Matthias Lang  
Düsseldorf, 5 June 2014



EEG 2.0

# Today's presenter



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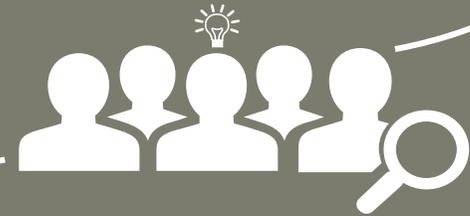


Here is a video recording of the webinar



# Content

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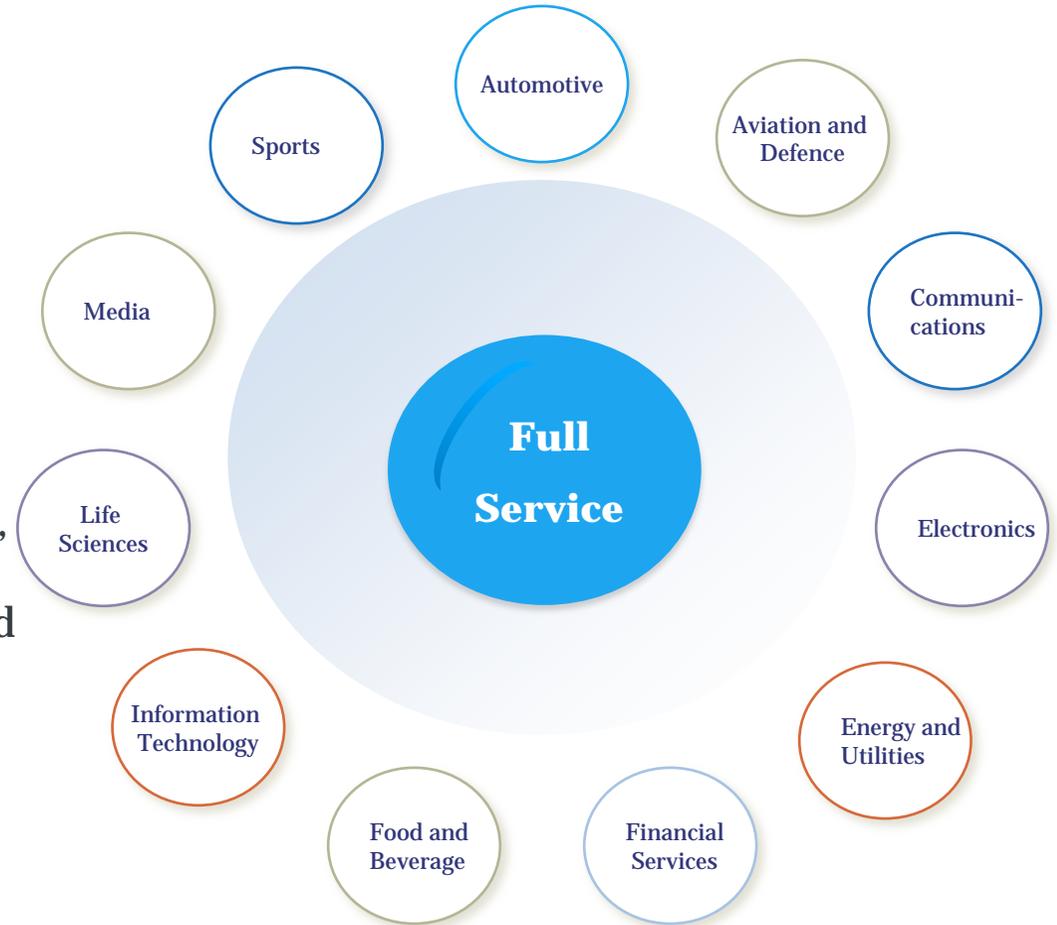


# 1. About Bird & Bird

# 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, Frankfurt, 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



# 1. About Bird & Bird - International Network -

A world map with a network of blue dots and connecting lines representing an international network. The dots are concentrated in Europe, with lines extending to other major global hubs. A semi-transparent dark grey box is overlaid on the left side of the map, containing a list of cities.

Abu Dhabi, Beijing,  
Bratislava, Brussels,  
Budapest, Copenhagen,  
Dubai, Düsseldorf,  
Frankfurt, The Hague,  
Hamburg, Helsinki, Hong  
Kong, London, Lyon,  
Madrid, Milan, Munich,  
Paris, Prague, Rome,  
Shanghai, Singapore,  
Skanderborg, Stockholm,  
Warsaw

# 1. About Bird & Bird

## - Energy Sector Focus -

### Our clients

- Utilities
- Generators and storage operators
- Transport and distribution system operators
- Trading Houses
- Operators of renewable energy systems
- Wind farms, solar park , bio fuel producers
- Energy services providers
- Banks
- Private equity / infrastructure funds
- Project financiers
- Regional authorities
- Federal Republic, Länder, districts, municipalities
- Manufacturers and suppliers
- Project / process developers
- System integrators

### Our areas of advice

- Renewable and conventional generation
- Grid expansion and grid access
- Grid fees / incentive regulation
- Smart Grid / Smart Metering
- Electric mobility
- Legislation and standardisation
- Energy storage, carbon capture & storage
- CO<sub>2</sub> certificates / emissions trading
- Green IT
- Oil & gas
- Privatisation/remunicipalisation
- Water supply
- Waste disposal
- Energy projects
- 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.germanenergyblog.de](http://www.germanenergyblog.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

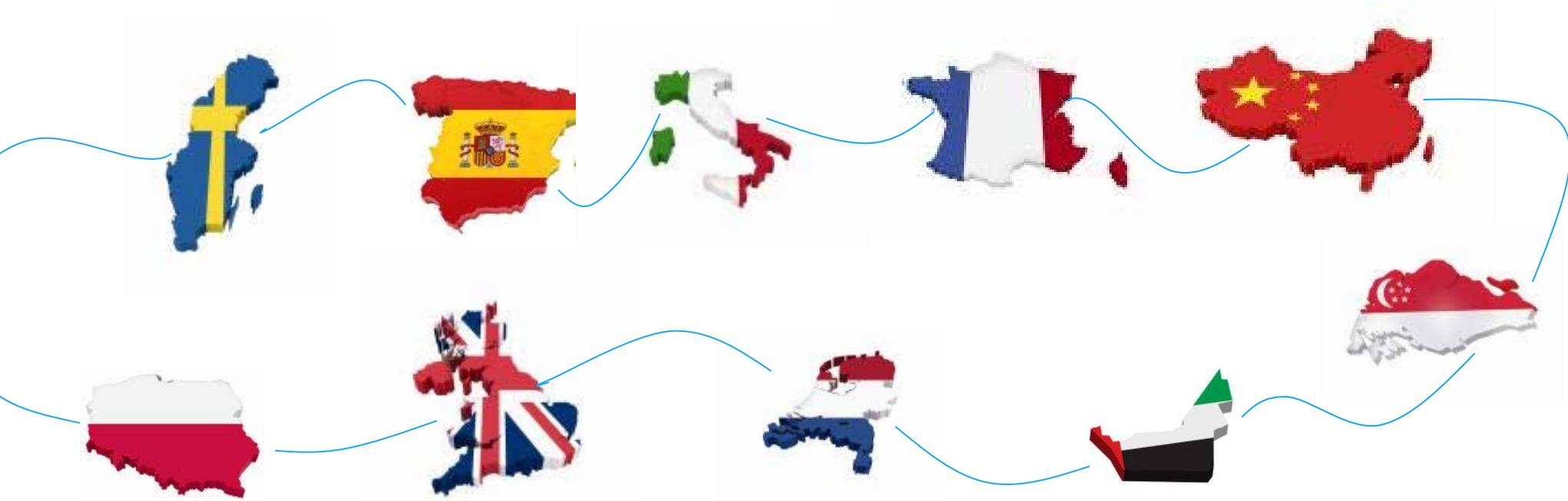


# 1. About Bird & Bird

## - 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





## 2. EEG 2014 Overview

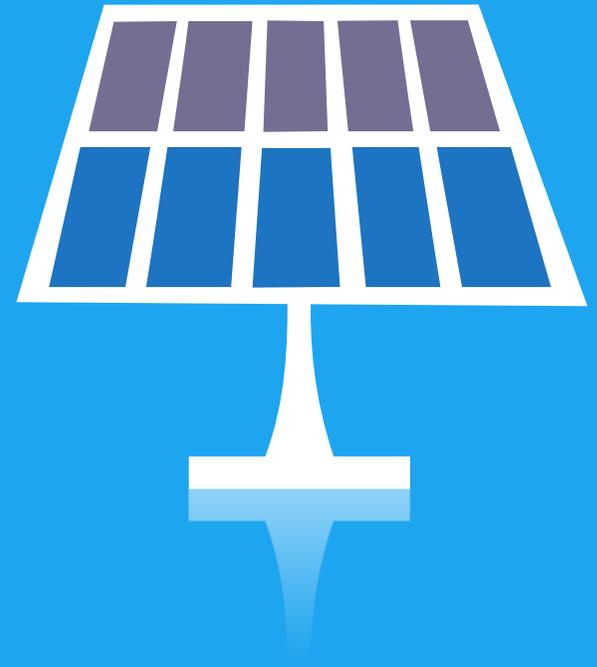
## 2. EEG 2014 Overview

### **Legislative Procedure**

Reform Background

Main Issues

Transitional Provisions



## 2. Overview EEG 2014 - Legislative Procedure -

### Substantial Reform of the Renewable Energy Sources Act (EEG)

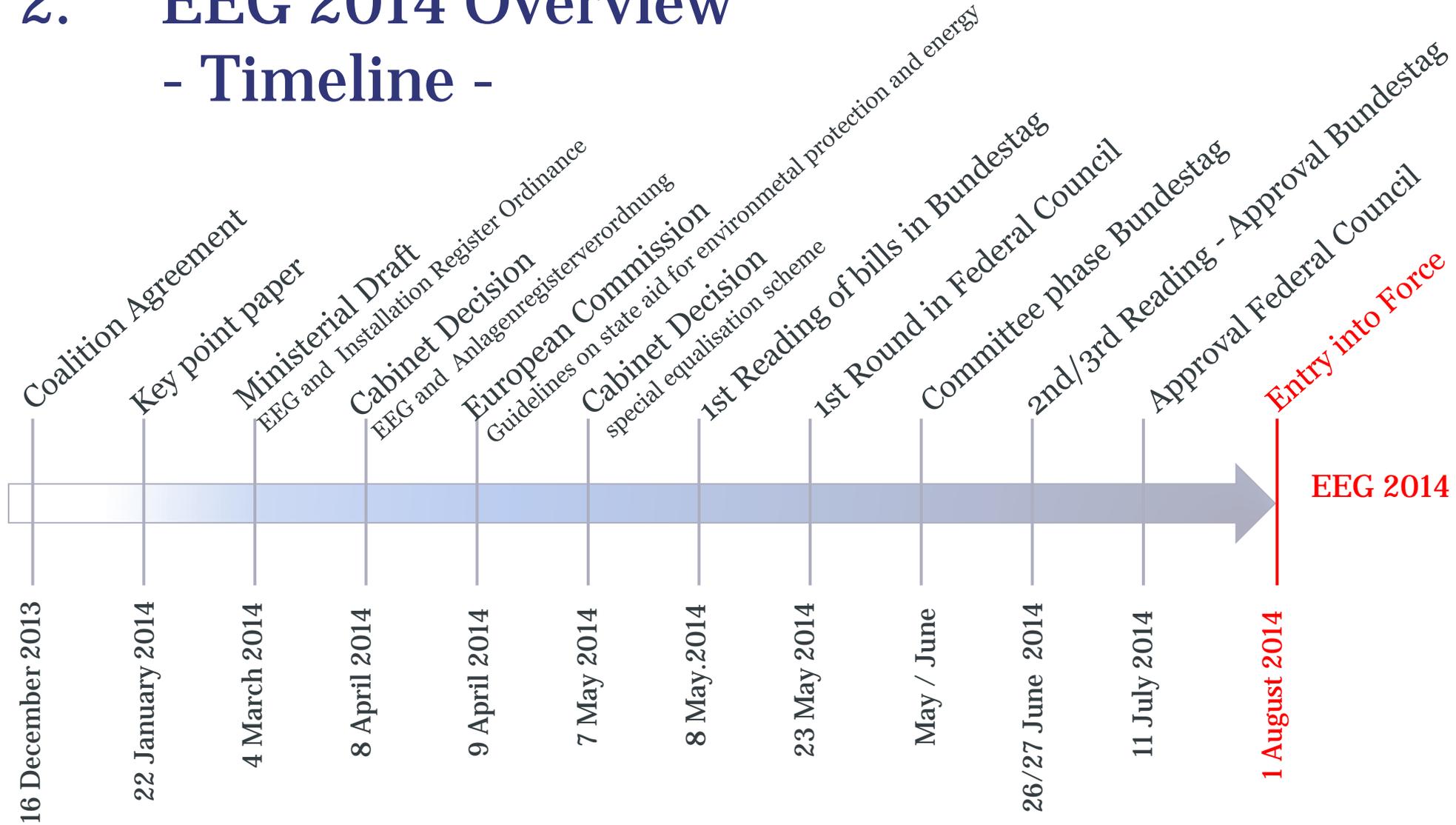
- Goals/background of the revision
  - Stop increasing costs
    - reduce bonuses granted on EEG support
    - Decrease feed-in tariffs
    - Abolish excessive promotion of renewables
  - Review/confirm expansion targets
    - 2025: 40 – 45 % renewable energies
    - 2035: 55 – 60 % renewable energies
  - Promotion of market integration of renewable energies
  - Align EEG with European law requirements
  - Protect justified interests

## 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
  - Länder opening clause to stipulate minimum wind power distances

## 2. EEG 2014 Overview - Timeline -



## 2. EEG 2014 Overview - Energiewende in General -

### Coalition Agreement

- 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. 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 the period 2014 to 2020, published on 9 April 2014

## 2. Overview EEG 2014 - Legislative Procedure -

### First Round Federal Council (Bundesrat) for Both EEG Bills 23 May 2014

- Comprehensive request of the Bundesrat committees to amend the draft bills
  - Changes would soften the government's proposed cost reduction measures
  - Committees requested about 100 changes over 77 pages
  - Draft special equalisation scheme: Bundesrat committees requested about 29 changes over 19 pages.
- Requested changes covered inter alia:
  - Changes of support thresholds and de minimis clauses
  - Reducing cuts, and
  - Extending deadlines

## 2. Overview EEG 2014 - Debate of Federal Council (Bundesrat) -

### Conceptually, the Federal Council Raised Issues Such As

- Objections against mandatory auctioning
- Annual instead of quarterly adjustment of support for biomass/wind onshore
- Request for minimum additional renewables quantities
- Current targets not sufficient for significant reduction of CO<sub>2</sub> emissions
- More flexibility regarding degression for biomass, wind onshore and PV
- Expansion of the biomass corridor from 100 MW/year to 200 or 300 MW/year, or only counting net additions
- Several requests regarding the self consumption privilege (§ 58 EEG), including increasing de minimis threshold from 10 kW to 100kW
- Reduction of the EEG surcharge for railways
- Lower Saxony: Request to allow underground extra high voltage cables also outside of pilot projects

## 2. Overview EEG 2014 - Legislative Procedure -

### First Round Decisions Bundesrat 23 May 2014

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

## 2. Overview EEG 2014 - Legislative Procedure -

### Cabinet Response of 28 May 2014

- Mainly: No, as deal in State Prime Minister conference 1 April 2014 with consent on key elements
- EEG
  - Government rejected majority of the amendments
  - Approved some of the proposed changes, announced to review some issues, key elements of reform remain unchanged
- Special equalization scheme
  - Government agreed to one amendment, proposing a clarification of the respective provision, and after review of a second matter, proposed another clarification
  - Key elements remain unchanged

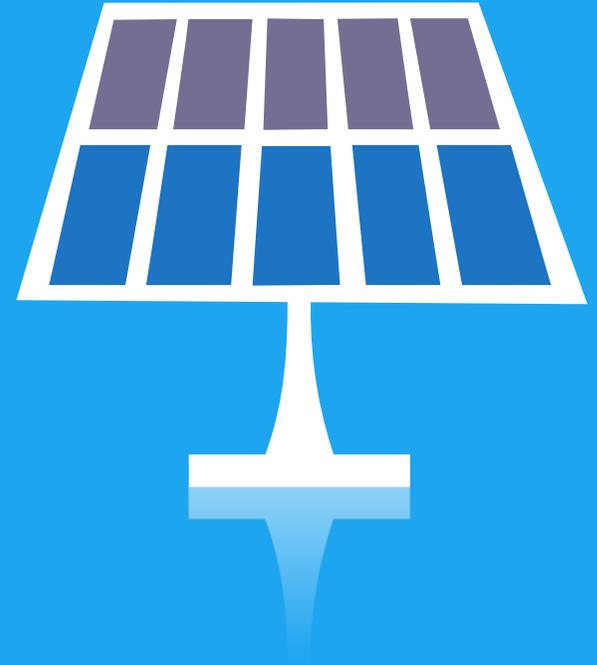
## 2. EEG 2014 Overview

Legislative Procedure

**Reform Background**

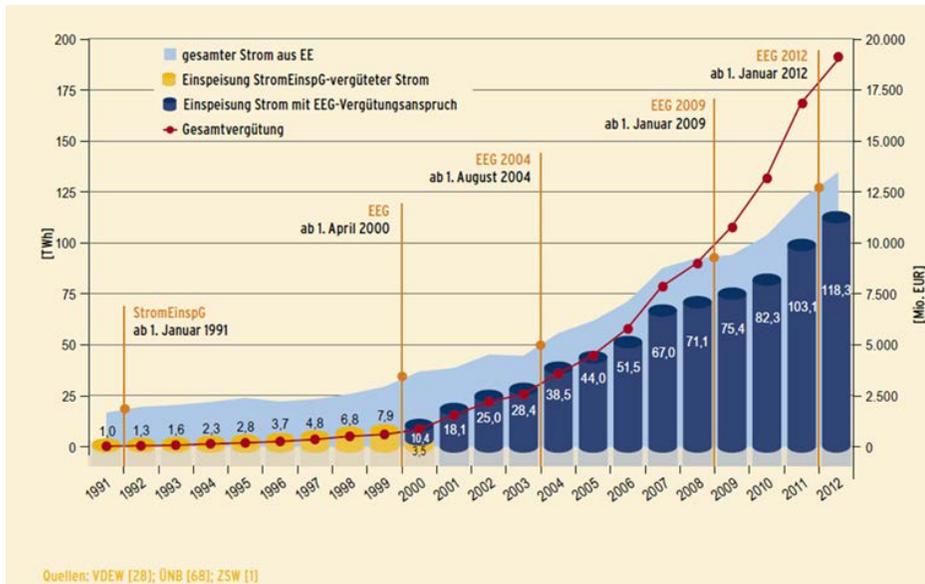
Main Issues

Transitional Provisions



## 2. Overview EEG 2014 - Reform Background -

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](http://www.erneuerbare-energien.de/fileadmin/Daten_EE/Dokumente_PDFs/_ee_in_zahlen_bf.pdf)

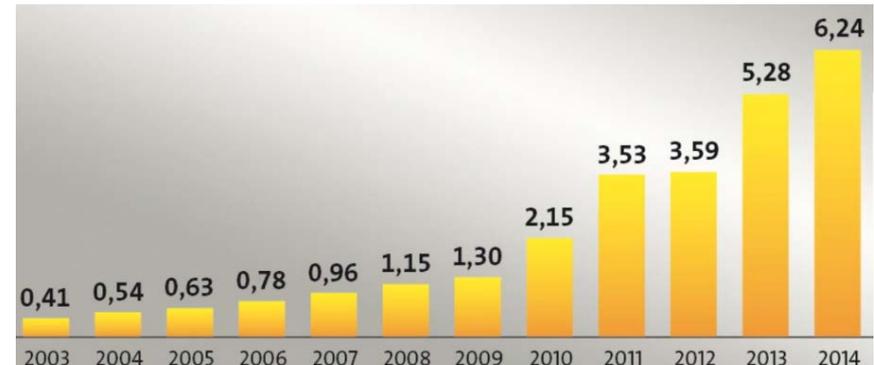
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Development of EEG Surcharge  
from 2001 until 2014

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

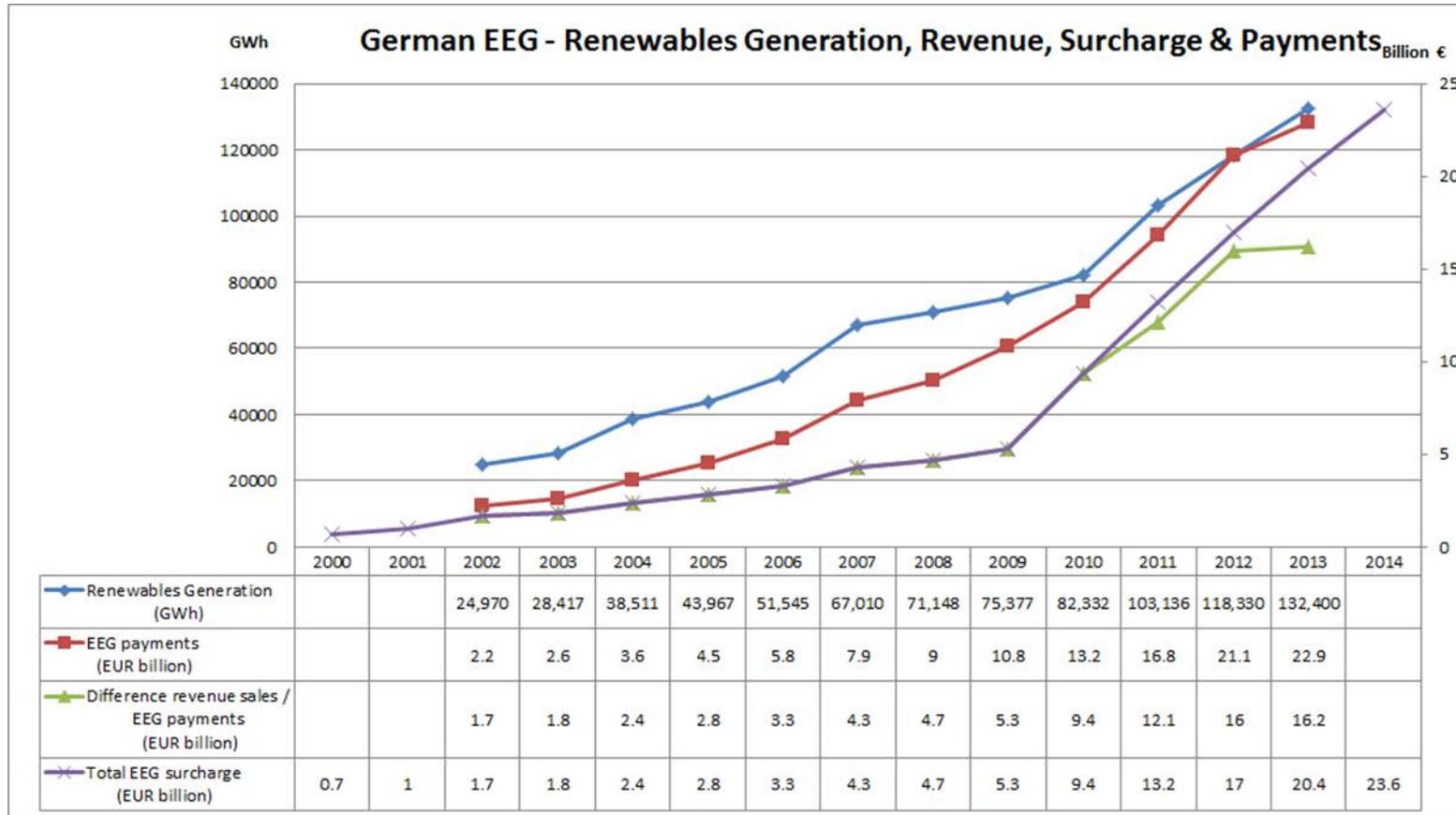


Source: tagesschau.de

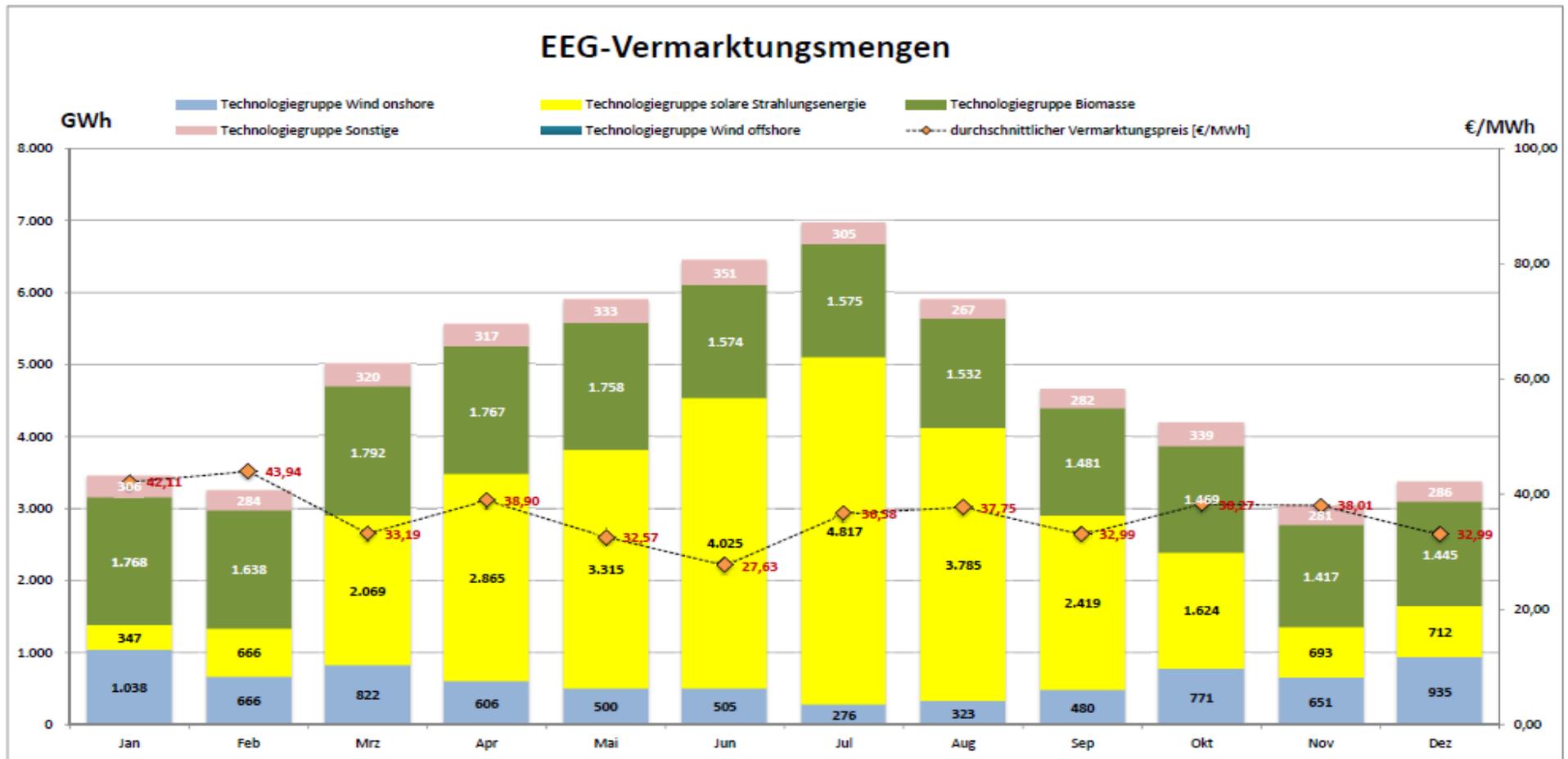
<http://www.tagesschau.de/wirtschaft/eeg-umlage108.html>

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## 2. Overview EEG 2014 - Reform Background -



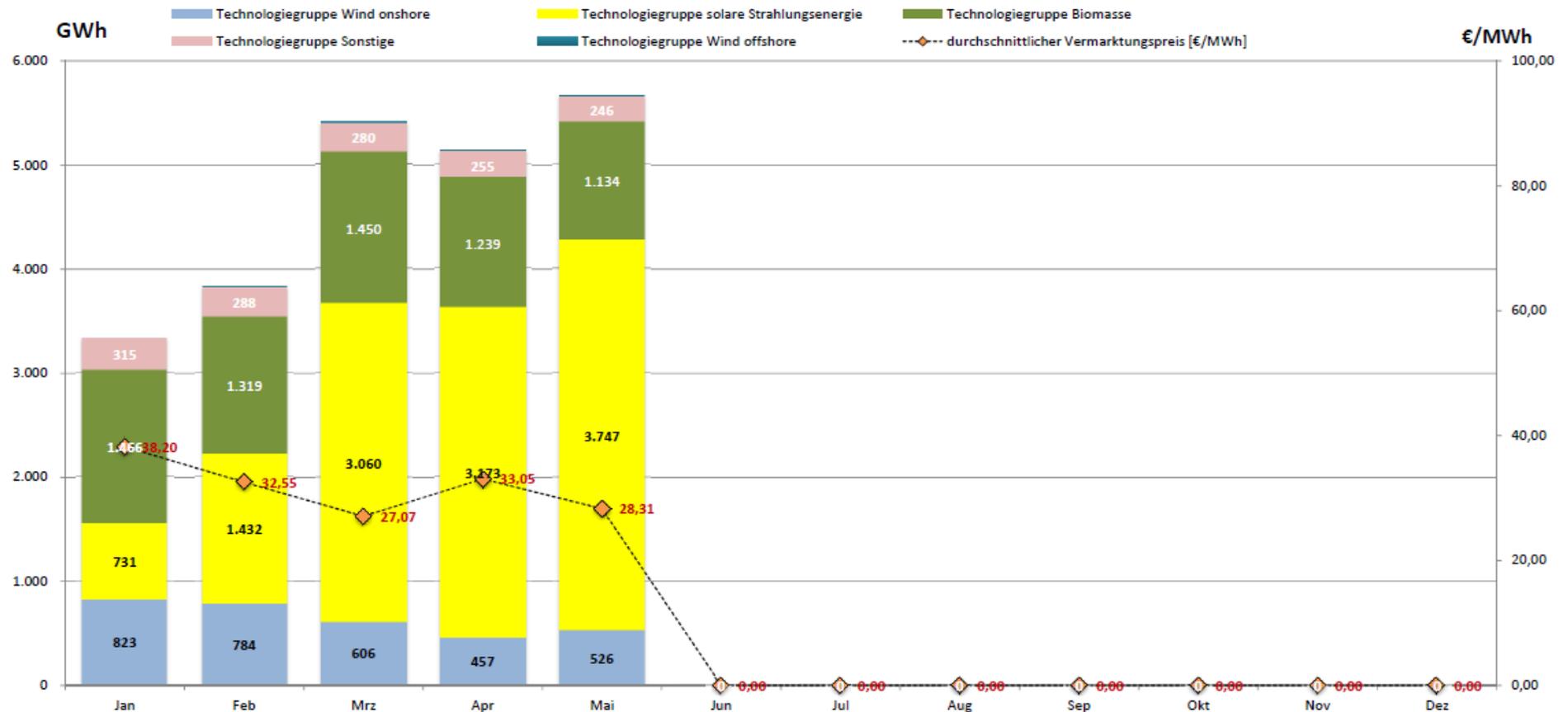
## 2. Overview EEG 2014 - Reform Background -



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

## 2. Overview EEG 2014 - Reform Background -

### EEG-Vermarktungsmengen



Source: <http://www.netztransparenz.de/de/EEG-Konten-Ubersicht.htm>

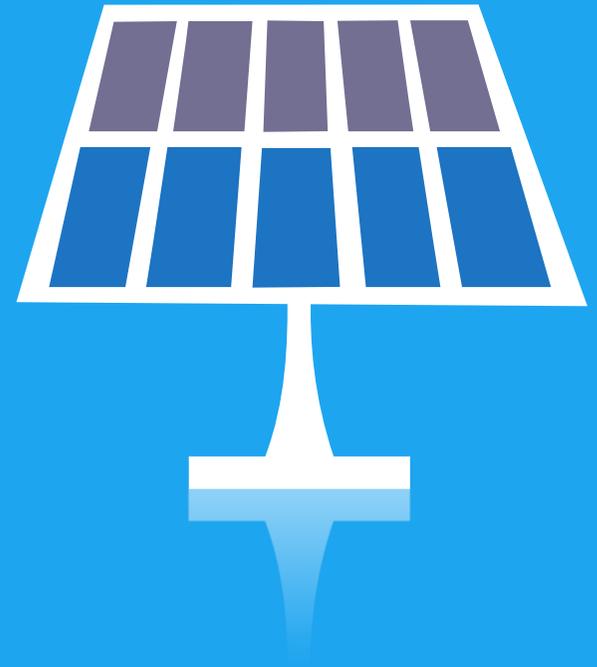
## 2. EEG 2014 Overview

Legislative Procedure

Reform Background

**Main Issues**

Transitional Provisions

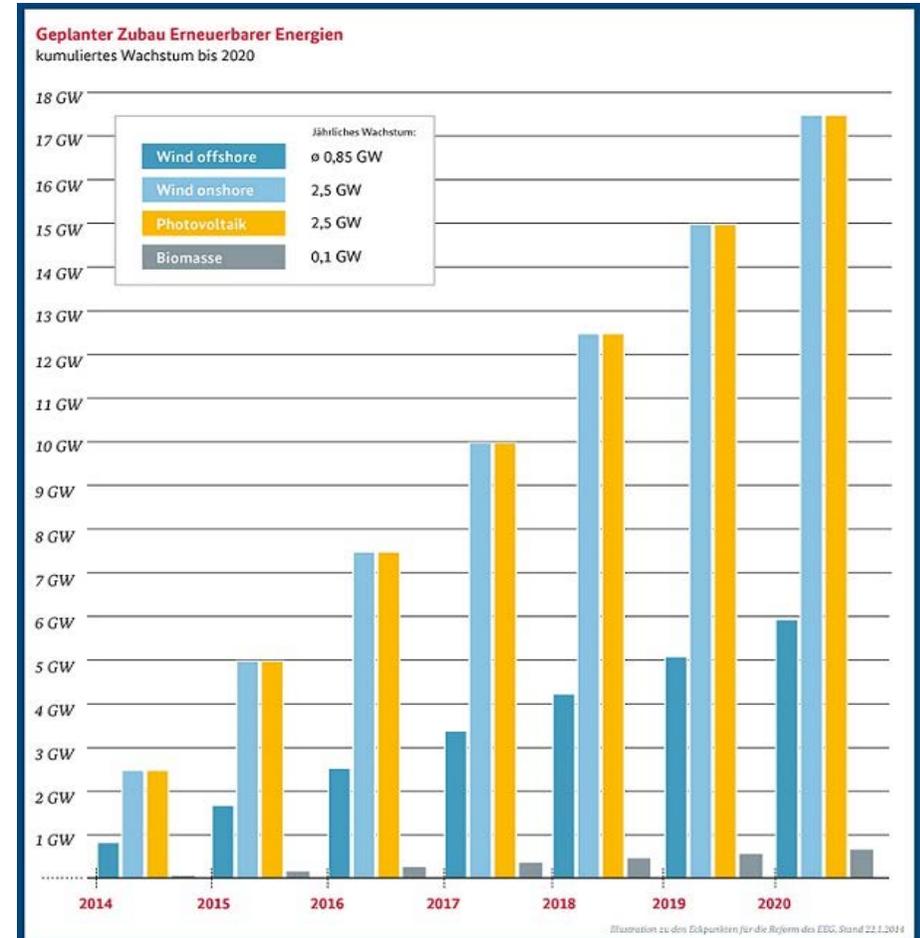


## 2. Overview EEG 2014 - New "Expansion Path" (Ausbaupfad) -

### 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. 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)

## 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)



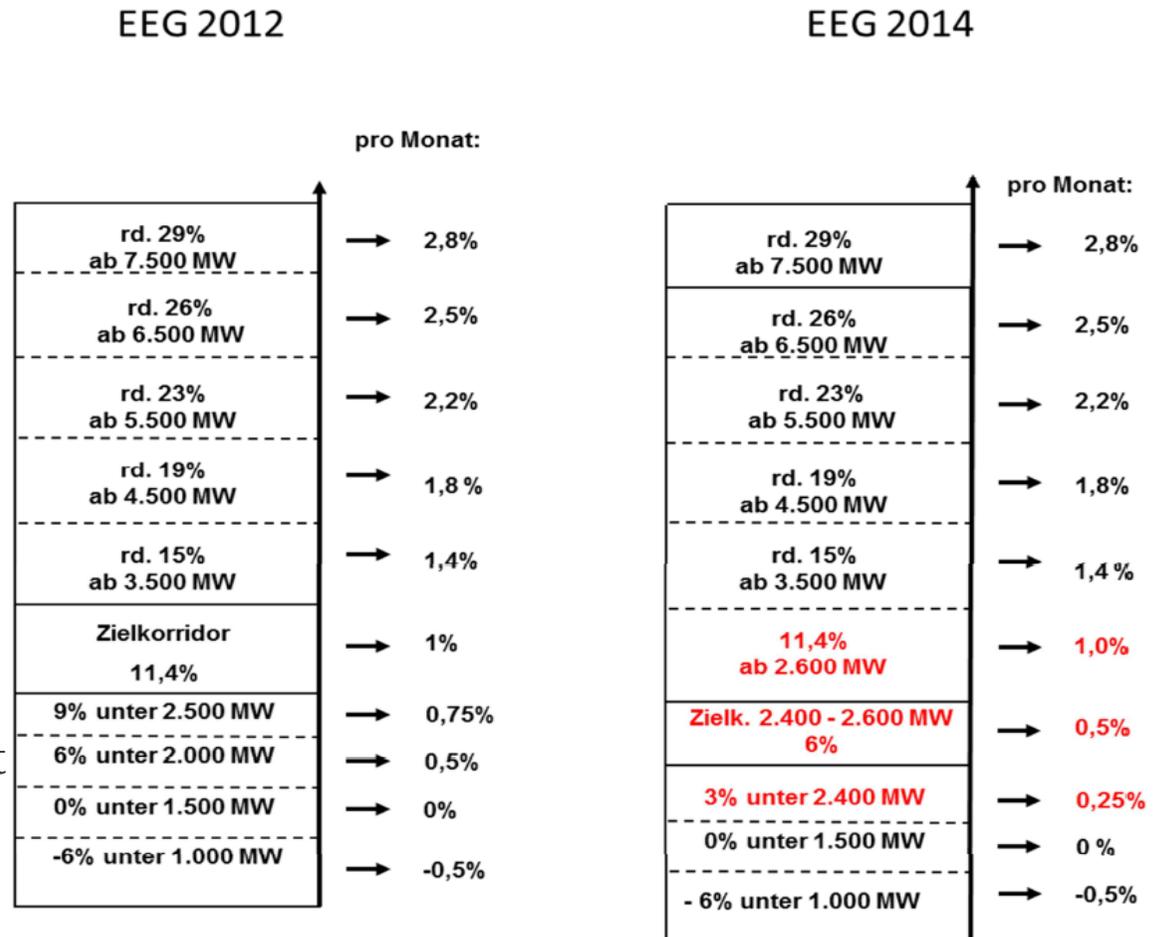
## 2. Overview EEG 2014 - Solar Power (1/2) -

### 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



## 2. Overview EEG 2014 - Solar Power (2/2) -

### Auctioning to Determine Support Level (§ 53 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. Overview EEG 2014 - Biomass -

### Biomass Sec. 27, 42 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
- Extension of existing biomass plants shall be remunerated
- Complicated regime

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. Overview EEG 2014 - Geothermal -

### Geothermal Sec. 26, 46 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. Overview EEG 2014 - Hydropower -

### Hydropower Sec. 26, 38 EEG 2014

- No growth target
- Decrease of feed-in tariffs from 2016 onwards by 1 % each year
- Slight changes regarding the feed-in tariffs

Capacity	Feed-in-tariffs EEG 2014	Feed-in-tariffs 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 50 MW	4.28 ct/kWh	4.12 ct/kWh
More than 20 MW	3.30 ct/kWh	3.33 ct/kWh

## 2. Overview EEG 2014 - Wind Onshore (1/4) -

### Wind Onshore – Feed-In-Tariffs, Sec. 26 EEG 2014

- Annual growth target corridor of 2,400 to 2,600 MW
- Support subject to depression 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 depression 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. Overview EEG 2014 - Wind Onshore (2/4) -

### Wind Onshore – Feed-In-Tariffs, Sec. 26 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 depression to
up to 200 MW	0.3 %
more than 200 MW	0.2 %
more than 400 MW	0 %
more than 600 MW	0% Depression + increase of feed-in-tariffs by 0.2 %
more than 800 MW	0% Depression + increase of feed-in-tariffs by 0.4 %

## 2. Overview EEG 2014 - Wind Onshore (3/4) -

### Wind Onshore – Feed-In-Tariffs Sec. 47 EEG 2014

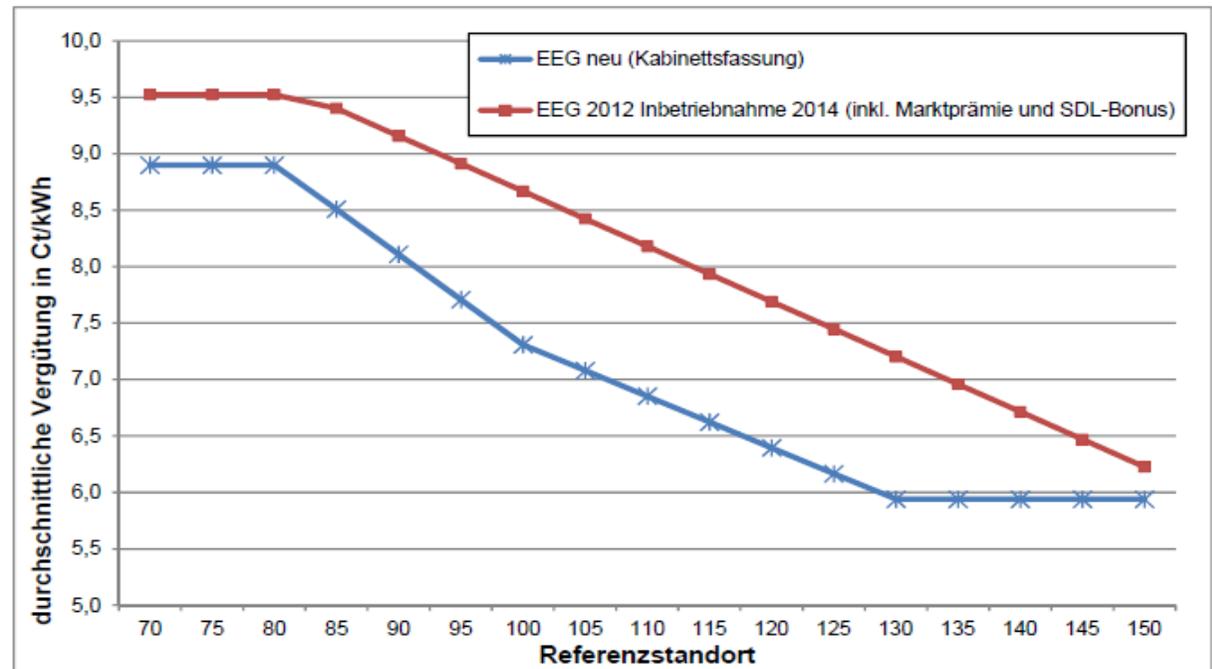
- Reduction of existing support
  - “Repowering” bonus for replacing old wind turbines by newer, more powerful ones (Repoweringbonus; cf. Section 30 EEG) deleted
  - bonus for providing system services (Systemdienstleistungsbonus; cf. Section 29 para. 2 sent. 3 EEG) deleted
  - Adjustment reference yield 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. Overview EEG 2014 - Wind Onshore (4/4) -

### Wind Onshore – Feed-In-Tariffs Sec. 47 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. Overview EEG 2014 - Wind Offshore (1/3) -

### Wind Offshore

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

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

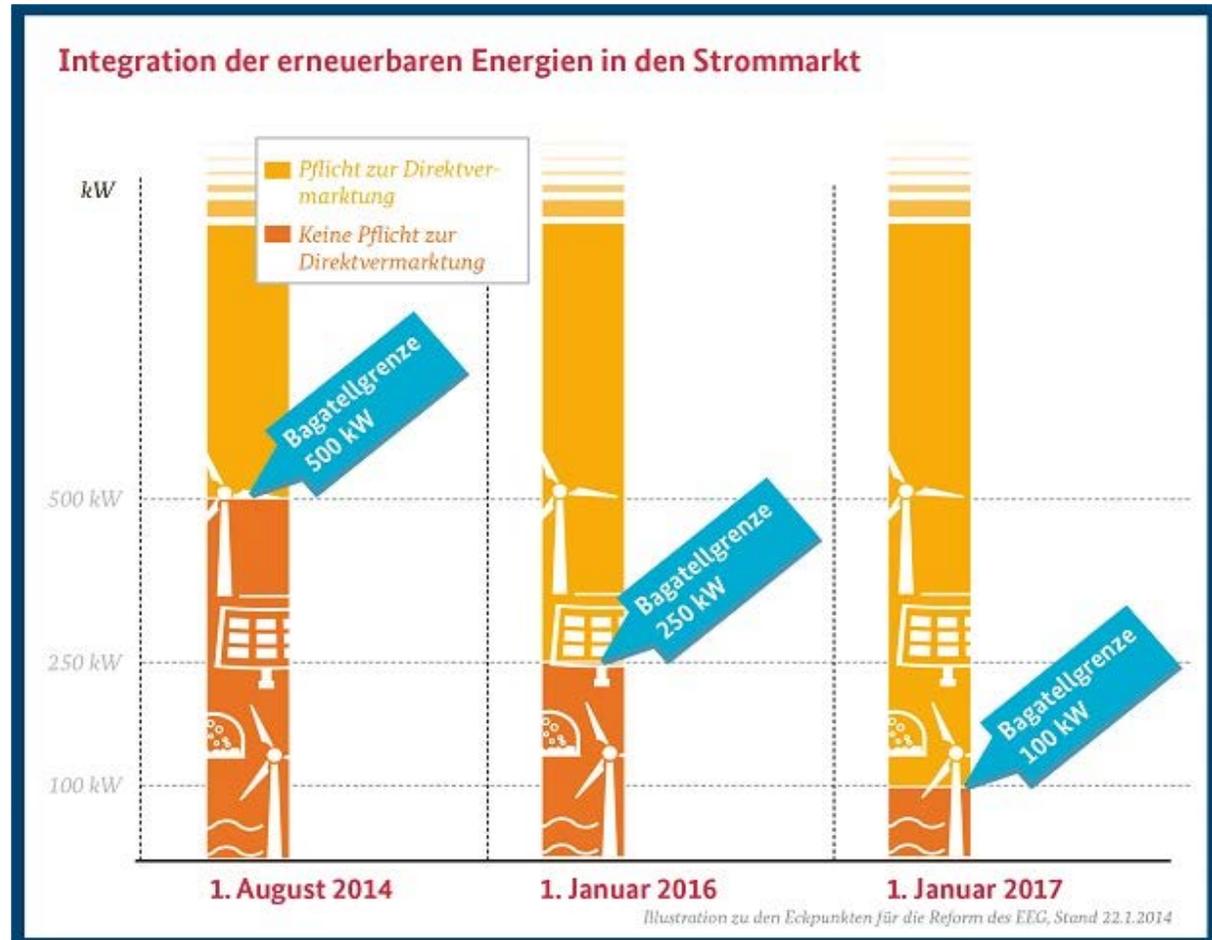
*“Grid connection capacity on connecting power lines will be allocated by the Regulatory Authority in cooperation with the Federal Agency for Maritime Shipping and Hydrography in an objective, transparent and non-discriminatory procedure. The maximum capacity to be allocated, including all existing unconditional 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. 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

<http://www.bmwi.de/DE/Themen/Energie/Erneuerbare-Energien/eeg-eform,did=616842.html>



## 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

new installations  
> 500 kW

from  
1 January  
2016

new installations  
> 250 kW

from  
1 January  
2017

new installation  
> 100 kW

- Grandfathering rules for existing installations

## 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

## 2. Overview EEG 2014 - Self Consumed Power (1/2) -

### Self Consumed Power

- Under EEG 2012 self-generated and self-consumed power is exempted from the EEG surcharge if the electricity is not transmitted via a grid or consumed in the vicinity of the electricity-generating installation (Section 37 para. 3, sent. 2 EEG)
- Economics and Energy Ministry initially wanted to make not only new plants for self-use contribute 90% of the EEG surcharge, but also freeze the EEG exemption for existing plants on the 2013 EEG-surcharge level, so that plants would have had to pay for a rising surcharge
- In talks with the federal states, the government made concessions

## 2. Overview EEG 2014 - Self Consumed Power (2/2) -

### Self Consumed Power

- Principle: Power consumed by generator himself (Eigenversorgung) shall also be subject to EEG surcharge payment obligation
- Important exemptions
  - Existing installation operated and self supply before 1 September 2011
  - Other existing installation operated before 1 August 2014 and used for self supply, or permitted before 23 January 2014 and operated by 1 January 2015 for self supply, or renovation/expansion/replacement at same location with increase of more than 30%
  - Self consumption of power plants
  - Not grid connected installation
  - Small self supply installations (up to 10 kW, for up to 10 MWh/year)

## 2. Overview EEG 2014 - Energy Intensive Companies (1/4) -

### 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. Overview EEG 2014 - Energy Intensive Companies (2/4) -

### Special Equalisation Scheme

- Bill contains new Sections 60 to 65 EEG 2014, Section 99 EEG 2014 contains grandfathering clauses
- 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

## 2. Overview EEG 2014 - Energy Intensive Companies (3/4) -

### 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 a 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)

## 2. Overview EEG 2014 - Energy Intensive Companies (4/4) -

### 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

## 2. 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

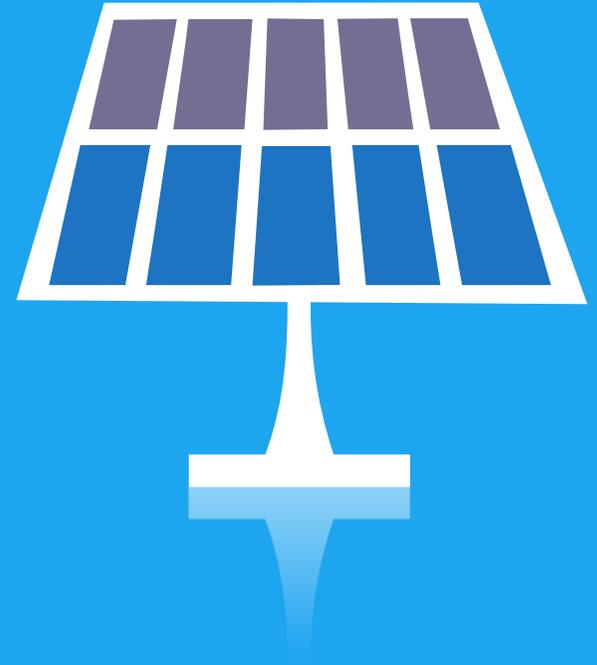
## 2. EEG 2014 Overview

Legislative procedure

Reform Background

Main issues

**Transitional provisions**



## 2. EEG 2014 Overview

### - Transitional Provisions -

#### Transitional Provisions

- Principle: EEG 2014 applies to both new and old installations (different from EEG 2012)
- But: extensive exemptions in Sec. 96 ff. EEG, provides broad grandfathering rules for existing installations regarding:
  - Support eligibility requirements
  - Feed-in tariffs
  - Optional direct marketing
  - Etc.
- However: Difficult structure, particularly in light of very frequent changes with different grandfathering regimes



### 3. EEG Revision and European Law

# 3. 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. 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 takes place in parallel with the revision of the European state aid provisions regarding support of renewable energies
- Government
  - Upholds view EEG not state aid
  - Considers important concerns of the European Commission, for example better market integration of renewable energies, also to be in the national interest
  - Considered it necessary that the European legal framework shall be developed in such a way that also in the future competitiveness of electricity intensive industries shall be ensured

# 3. EEG and European Law

## - State Aid Guidelines (1/3) -

### Guidelines Environmental/Energy Aid 2014-2020

- Released 9 April 2014
- Under the new regime the German government shall be able to largely uphold reductions on the EEG surcharge, though reductions will have to be scaled back and can only be granted to a more limited group of companies
- Commission's communication points out that the Guidelines have (only) been adopted in principle on 9 April 2014, and that the formal adoption will follow
- Published version is technically speaking for information purposes only and without prejudice to the authentic texts that will be published in the Official Journal later

# 3. EEG and European Law

## - State Aid Guidelines (2/3) -

### Guidelines Environmental/Energy Aid 2014-2020

- Guidelines 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. EEG and European Law

## - State Aid Guidelines (3/3) -

### 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. 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



# 3. EEG and European Law

## - Ålands Vindkraft (C-573/12) (1/4) -

### Swedish Renewables Support Scheme

- Pending Case
- View of Advocate General Ives Bot presented 28 January 2014
- Exclusion of Ålands Vindkraft from Sweden's renewable support scheme is breach of EU rules on the free movement of goods
- 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



# 3. EEG and European Law

## - Ålands Vindkraft (C-573/12) (2) -

### 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. EEG and European Law

## - Ålands Vindkraft (C-573/12) (3/4) -

### Background

- Ålands Vindkraft, which operates a wind farm in Finland (connected to Swedish grid), applied for Swedish green certificates, and was refused on the grounds that green certificates were available only for wind farms based in Sweden
- Ålands Vindkraft applied to the court, which referred a series of questions to the CJEU
- Advocate General Bot expressed the view that while the 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
  - Article 3 of the Renewables Directive invalid to the extent that it permits Member States to deny or restrict access to their support regimes to RES situated in other Member States

# 3. EEG and European Law

## - Ålands Vindkraft (C-573/12) (4/4) -

### Consequences?

- If arguments is followed by CJEU, Member States will need to open up their green certificate regimes to renewable energy from other Member States
- Relevance for feed-in tariffs to be assessed
- Would materially change commercial goalposts of existing national support schemes
- Would quickly require EEG 3.0

# 3. 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)

# 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



## 4. Discussion

## 5. Discussion – Questions – Notes



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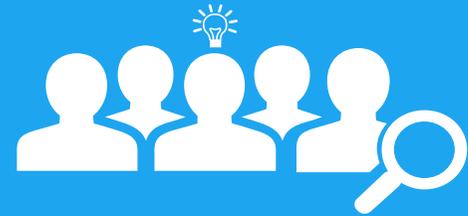
## 5. Back-up

Bird & Bird Energy Team

Legislative procedure

European Law Aspects

Background EEG



# Back-up

## 5.1 Energy Team

# 5.1 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

# Manfred Ungemach

## Partner



*"Leading name in energy law"*

JUVE Handbook 2011/2012

*"According to peers he is 'obviously one of the leading names in Germany for energy questions' "*

Chambers Europe 2012

*"One of the outstanding practitioners in Germany"*

Guide to the World's Leading Energy Attorneys, 9th Edition, 2012

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*Manfred Ungemach has gained a reputation as one of the most well-respected German lawyers specialising in energy law.*

- Manfred Ungemach is partner in our office based in Düsseldorf and a member of the Energy & Utilities Sector Group.
- He has focused, from the beginning of his professional career, on the energy industry. Leading directories continuously list him among the leading German energy lawyers.
- He brings to clients in-depth knowledge of the energy sector, in particular downstream electricity and natural gas. He is praised for his ability to combine legal expertise with great awareness and understanding of the commercial, technical and strategic aspects of the energy industry.
- He focuses his practice on the European and German regulation of energy markets and system operators, energy supply and service agreements and other commercial contracts, energy trading and energy antitrust and competition.
- While most of his work is non-contentious, he also has been representing clients in litigation, arbitration and regulatory proceedings. Manfred Ungemach also advises in relation to energy projects in particular power plants, gas pipelines and storage systems. In addition, he has been involved in numerous mergers and acquisitions in the energy sector.
- His clients include important national and international companies within the electricity and gas sector, investors in the energy industry and power plants and major energy consumers.
- Manfred Ungemach is a frequent speaker at national and international energy conferences and regularly publishes in legal and industry journals.

# Johannes Kindler

## Of Counsel



*Johannes provides expert advice in relation to infrastructure investments in the energy sector and regulatory issues.*

- Prior to joining us, Johannes spent most of his professional career in the German Federal Government, focusing in particular on energy and industrial politics, finance and competition.
- After seven years as an adviser within the Federal Ministry of Economics, he worked for the Chancellor's Office (*Bundeskanzleramt*) where he served the Chancellors Helmut Kohl, Gerhard Schröder and Angela Merkel until 2007. He headed the Department responsible among other things for industrial and energy policy, foreign trade and financial markets.
- From 2007 to January 2012 he was Vice Chairman of the *Bundesnetzagentur* (Federal Network Agency), the German regulator for electricity, gas, telecommunications, post and railways. During this period, he also acted as Vice President of the Council of European Energy Regulators (CEER) and as a Member of the Board of the Agency for the Cooperation of Energy Regulators (ACER).
- Among other areas, at the *Bundesnetzagentur* he headed the energy sector and spent the majority of his time shaping national and European regulatory policy and maintaining close contact with potential investors in the German energy infrastructure. In the context of his European activities, Johannes was Chairman of the "Financial Services" working group which focused on energy trading issues, market integrity, VAT fraud and the financing of the European energy infrastructure.
- Johannes provides us strategic advice to companies, investors and national and European institutions within the energy sector and other regulated industries. Having previously made key contribution to the designing of the regulatory framework, he is familiar with many of the current problems in this regard both at the German and the European level.
- Additionally, Johannes will share his experience of business, economics, finance, law and politics to support key industry players and public institutions.

# Dr. Wolf-Rainer Bentzien Of Counsel



*"brings invaluable industry expertise to the table"*

Chambers Europe 2013

*Wolf-Rainer provides expert advice for the energy sector and combines legal and commercial know how.*

- As Of Counsel, Wolf-Rainer mainly advises in the energy sector. He gained experience while working several decades in this sector. Until his retirement as General Counsel, Senior Vice President of E.ON Ruhrgas AG and member of the E.ON Top Executive Group at the end of 2006, he acted predominantly in the gas industry in diverse sectors, both legal and commercial.
- At E.ON Ruhrgas AG, Wolf-Rainer supervised energy purchase legal issues, including big natural gas import contracts and national and international transport, as well as big international arbitration procedures and international projects. From 1980 to 1987 Wolf-Rainer managed the department purchase of liquefied natural gas, as well as the department supply of gas from the North Sea in the natural gas purchase department of E.ON Ruhrgas AG. His experience includes a gas project in Cameroon. He was also involved in natural gas projects of Ferrostaal and Ruhrgas in Argentina and Chile which were partly competing with fertilizer and methanol projects.
- He was also intensely engaged as an energy lawyer within the International Bar Association. From 1994 to 1996 he was Chairman of the Section on Energy in Natural Resources Law and acted for several years as a member of the IBA Council and the Nominations Committee. In 2005 was appointed as an Honorary Life Member of the association.

# Stefanie Blasberg

## Associate



*Stefanie advises her clients on various aspects of energy, regulatory and environmental law.*

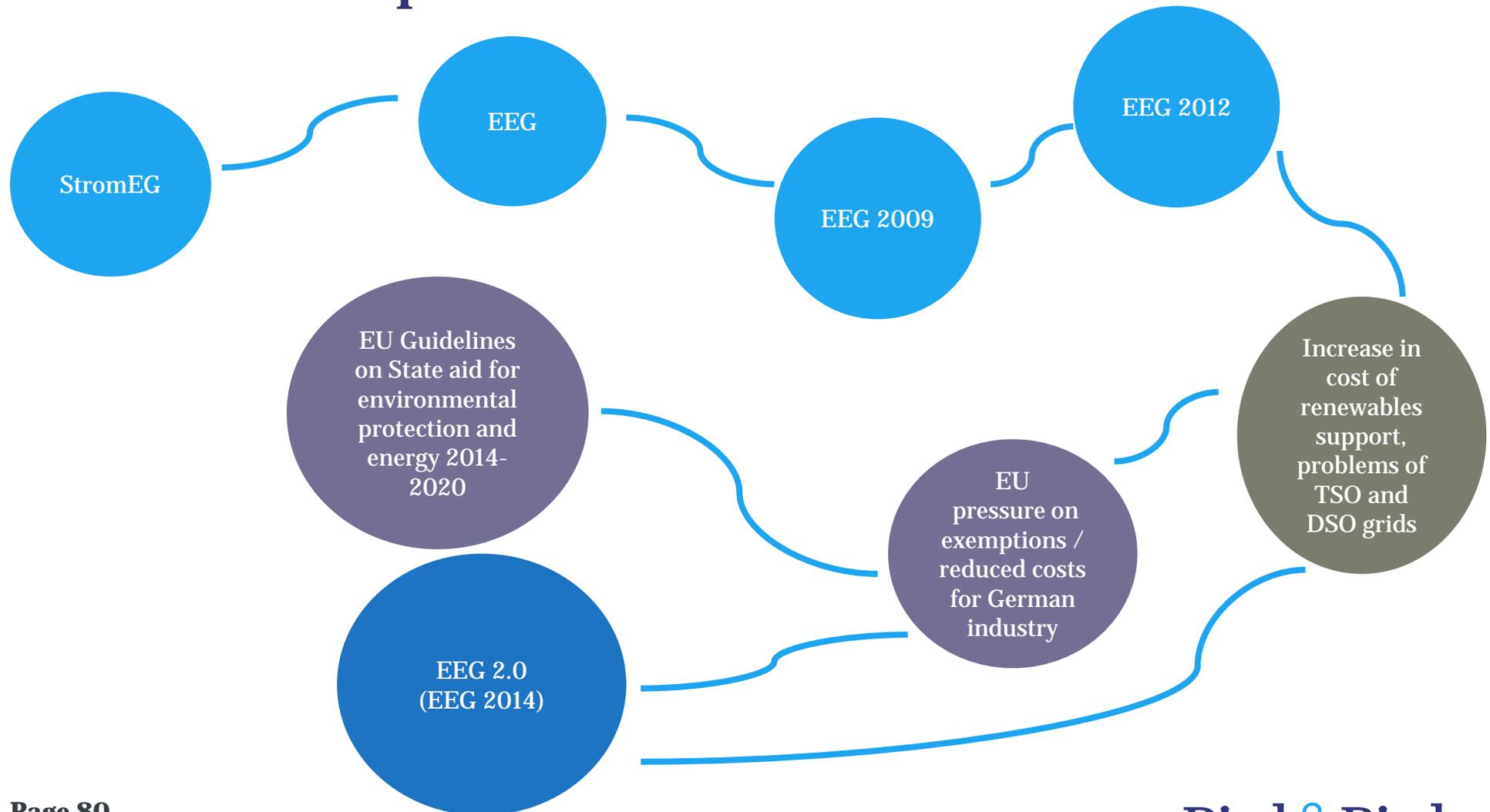
- Stefanie is an associate in the International Energy & Utilities Sector Group at our Düsseldorf office. She is also a member of our Regulatory & Administrative Practice Group.
- She advises German and international clients on energy, regulatory, and environmental law matters, as well as public commercial law issues. She has additional expertise in corporate law, administrative, European law and standardisation.
- Stefanie advises on legal issues ranging from energy production to trade and transportation, also extending to energy distribution matters. She also advises on European and national aspects of regulation, grid concession, grid access, grid connection and grid fees.
- In addition, Stefanie advises on infrastructure projects involving conventional and renewable energy generation; planning and permitting procedures for extra high voltage lines; and other industrial installations. Her work includes representing clients before the Federal Network Agency and others in diverse administrative proceedings, before national and European courts and in arbitration proceedings.
- Before joining Bird & Bird in 2011, Stefanie gained two years' experience at a major international accounting and law firm in the field of energy law.

# Back-up

## 5.2 Legislative procedure



## 5.2 Legislative procedure - Development of the EEG -



# Energy Law Agenda New German Government

## 5.2 Legislative procedure

### - Energy Agenda – Coalition Agreement -

#### CDU/CSU/SPD Coalition Agreement

- 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)

# 5.2 Legislative procedure

## - Energy Agenda – Coalition Agreement -

### Energiewende in General

- Continue Energiewende
- Energy policy triangle
  - Climate and environmental compatibility
  - Security of supply
  - Affordability: Further expansion of renewables had to occur bearing in mind cost efficiency of the overall energy infrastructure, including grid expansion and the 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

## 5.2 Legislative procedure

### - Energy Agenda – 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 programme 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

## 5.2 Legislative procedure

### - Energy Agenda – 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
  - 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 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.
  - Share of combined heat and power shall increase to 25% by 2020

## 5.2 Legislative procedure

### - Energy Agenda – 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

# 5.2 Legislative procedure

## - Energy Agenda – 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
- Evaluation reports for incentive regulation scheme and grid study on modern distribution grids as data basis for development of regulatory framework
- 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 re-communalisation of distribution grids

## 5.2 Legislative procedure

### - Energy Agenda – 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)

## 5.2 Legislative procedure

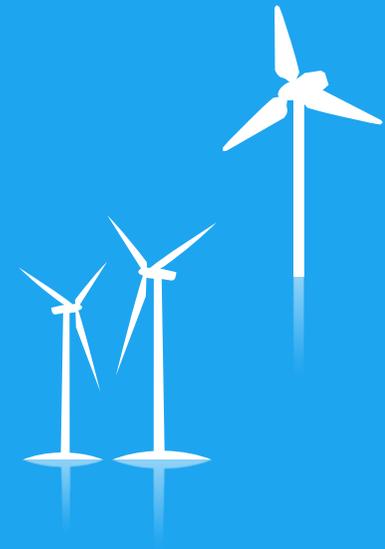
### - Energy Agenda – Coalition Agreement -

#### 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 from fracking
- Restrictive course to be continued – or new rules to enable fracking?

# Back-up

## 5.3 European Law Aspects



# 3. EEG and European Law

## - Vent de Colère (C-262/12) (1/3)



### French Wind Tariff Case

- Obligation to purchase at higher than market price the electricity generated by wind-power installations, as a result of Law No 2003-8 of 3 January 2003, to be regarded as an intervention by the State or through State resources within the meaning, and for the application, of Article 107(1) TFEU?
- Opinion Advocate General Niilo Jääskinen 11 July 2013: Yes!
  - Aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods
  - Also rejects application to restrict temporal scope
    - Retroactive obligations for repayment?

# 3. EEG and European Law

## - Vent de Colère (C-262/12) (2/3) -

### Judgment 19 December 2013

- Granted directly or indirectly through State resources?
  - "The offset mechanism at issue in the main proceedings was established by Law No 2000-108 and must therefore be regarded as attributable to the State"
- Advantage granted directly or indirectly through State resources?
  - Concept intended to cover, in addition to advantages granted directly by the State, those granted through a public or private body appointed or established by that State to administer the aid
  - Sums managed by the Caisse des dépôts et consignations must be regarded as remaining under public control
- Yes, intervention through state resources, and therefore state aid

# 3. EEG and European Law

## - Vent de Colère (C-262/12) (3/3) -

### Limitation of Temporal Effects of the Judgment?

- The rule as thus interpreted may, and must, be applied by the courts to legal relationships arising and established before the judgment
- It is only quite exceptionally that the Court may, in application of the general principle of legal certainty inherent in the Union legal order, be moved to restrict for any person concerned the opportunity of relying on a provision which it has interpreted with a view to calling into question legal relationships established in good faith
- Two essential criteria must be fulfilled before such a limitation
  - that those concerned should have acted in good faith, and
  - that there should be a risk of serious difficulties, whereas financial consequences for a Member State from a preliminary ruling have never, in themselves, justified limiting the temporal effect of a ruling

# Back-up

## 5.4 Background EEG

### Fact & Figures



# 5.4 Background EEG

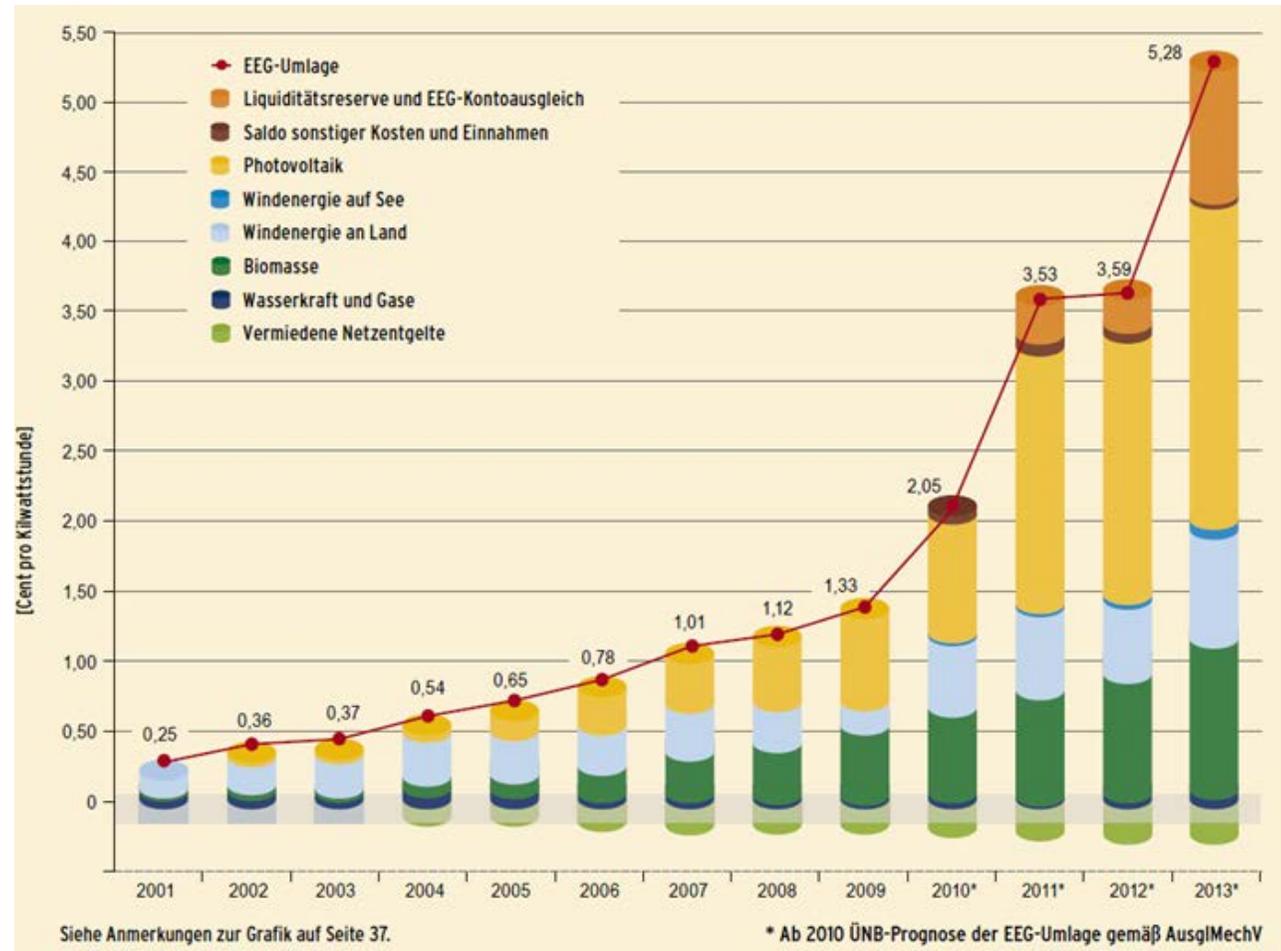
## - Increase of EEG Surcharge -

### Increase of EEG surcharge

- Current EEG surcharge amounts to 6.28 c/kWh
- Increase due to enormous expansion of solar energie

Source: BMU

[http://www.erneuerbare-energien.de/fileadmin/Daten\\_EE/Dokumente\\_PDFs/ee\\_in\\_zahlen\\_bf.pdf](http://www.erneuerbare-energien.de/fileadmin/Daten_EE/Dokumente_PDFs/ee_in_zahlen_bf.pdf)



# 5.4 Background EEG - Renewable Surcharge Account - Balance Sheet: EEG Revenues and Costs in 2013

Einnahmen [€] im jeweiligen Monat in 2013

	Jan	Feb	Mrz	Apr	Mal	Jun	Jul	Aug	Sep	Okt	Nov	Dez	Gesamtjahr
<b>Einnahmenpositionen gemäß § 3 Abs. 3 AusglMechV</b>													
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 <sup>1)</sup>	33.273.257,46	143.440.676,55	738.054.179,42	740.901.950,47	730.423.233,78	726.472.040,13	722.820.629,54	724.208.027,45	724.119.055,47	723.021.821,20	730.420.907,05	730.031.010,53	
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
<b>Einnahmenpositionen gemäß § 6 Abs. 3 AusglMechAV</b>													
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
<b>Gesamt [€]</b>	<b>1.362.924.083,38</b>	<b>1.969.344.094,43</b>	<b>1.938.792.052,79</b>	<b>2.003.648.224,15</b>	<b>1.858.860.641,24</b>	<b>1.796.819.014,33</b>	<b>1.831.497.864,24</b>	<b>1.820.208.962,60</b>	<b>1.957.433.437,94</b>	<b>1.755.425.683,51</b>	<b>1.779.980.677,83</b>	<b>1.768.784.510,65</b>	<b>21.843.719.267,09</b>

Ausgaben [€] im jeweiligen Monat in 2013

	Jan	Feb	Mrz	Apr	Mal	Jun	Jul	Aug	Sept	Okt	Nov	Dez	Gesamtjahr
<b>Ausgabenpositionen gemäß § 3 Abs. 4 AusglMechV</b>													
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	365.492.158,80	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 <sup>2)</sup>	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
<b>Ausgabenpositionen gemäß § 6 Abs. 1, 3 und § 8 Abs. 4, 5 AusglMechAV</b>													
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	2.298,63	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	375.123,99	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-Abwehloungen (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
<b>Gesamt [€]</b>	<b>942.294.465,26</b>	<b>1.125.322.293,90</b>	<b>964.120.668,97</b>	<b>1.937.078.067,02</b>	<b>1.977.076.196,99</b>	<b>2.192.875.486,38</b>	<b>2.680.441.111,27</b>	<b>2.359.955.832,02</b>	<b>1.866.122.640,31</b>	<b>1.040.142.485,48</b>	<b>1.190.728.342,23</b>	<b>1.101.719.456,22</b>	<b>19.377.877.036,05</b>

Saldo des jeweiligen Monats (Einnahmen - Ausgaben)

<b>Saldo [€]</b>	<b>420.629.618,12</b>	<b>844.021.800,53</b>	<b>974.671.383,82</b>	<b>66.570.157,13</b>	<b>-118.215.545,75</b>	<b>-396.056.472,05</b>	<b>-848.943.247,03</b>	<b>-539.746.849,42</b>	<b>91.310.797,63</b>	<b>715.283.198,03</b>	<b>589.252.335,60</b>	<b>667.065.054,43</b>	<b>2.465.642.231,04</b>
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Kontostand zum 31.12.2012:

-2.651.166.648,46

Kontostand (Monatsende)

<b>Kontostand [€]</b>	<b>-2.270.637.030,24</b>	<b>-1.426.515.229,81</b>	<b>-451.843.845,99</b>	<b>-385.273.688,86</b>	<b>-503.489.234,61</b>	<b>-899.545.706,66</b>	<b>-1.748.488.953,69</b>	<b>-2.288.235.803,11</b>	<b>-2.196.925.005,48</b>	<b>-1.481.641.807,45</b>	<b>-892.389.471,85</b>	<b>-225.324.417,42</b>
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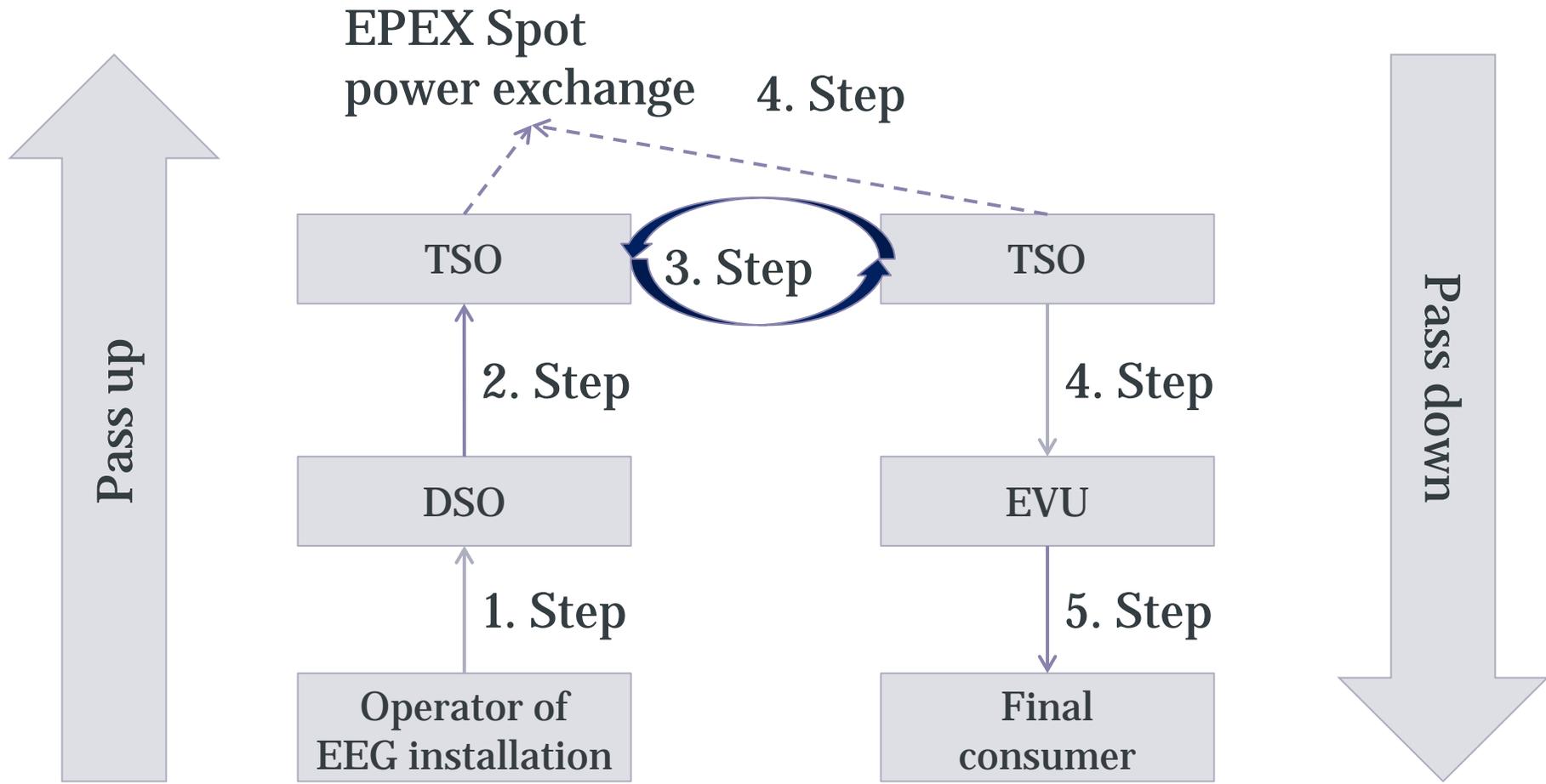
1) Der Umlageanteil 2013 aus Liquiditätsreserve beträgt nach Folie 29 aus "Konzept zur Prognose und Berechnung der EEG-Umlage 2013 nach AusglMechV" (s. www.eeg-kwk.net) 4,16 €/MWh. Mit Bezug auf die gesamte EEG-Umlage ergibt sich ein Anteil von: 4,18/52,77 = 7,921167 %.

Im Monat Januar ist noch der Liquiditätsanteil 2,576 % aus Umlage 2012 enthalten.

2) ... sofern die ÜNB zum Betrieb des Anlagenregisters verpflichtet worden sind.

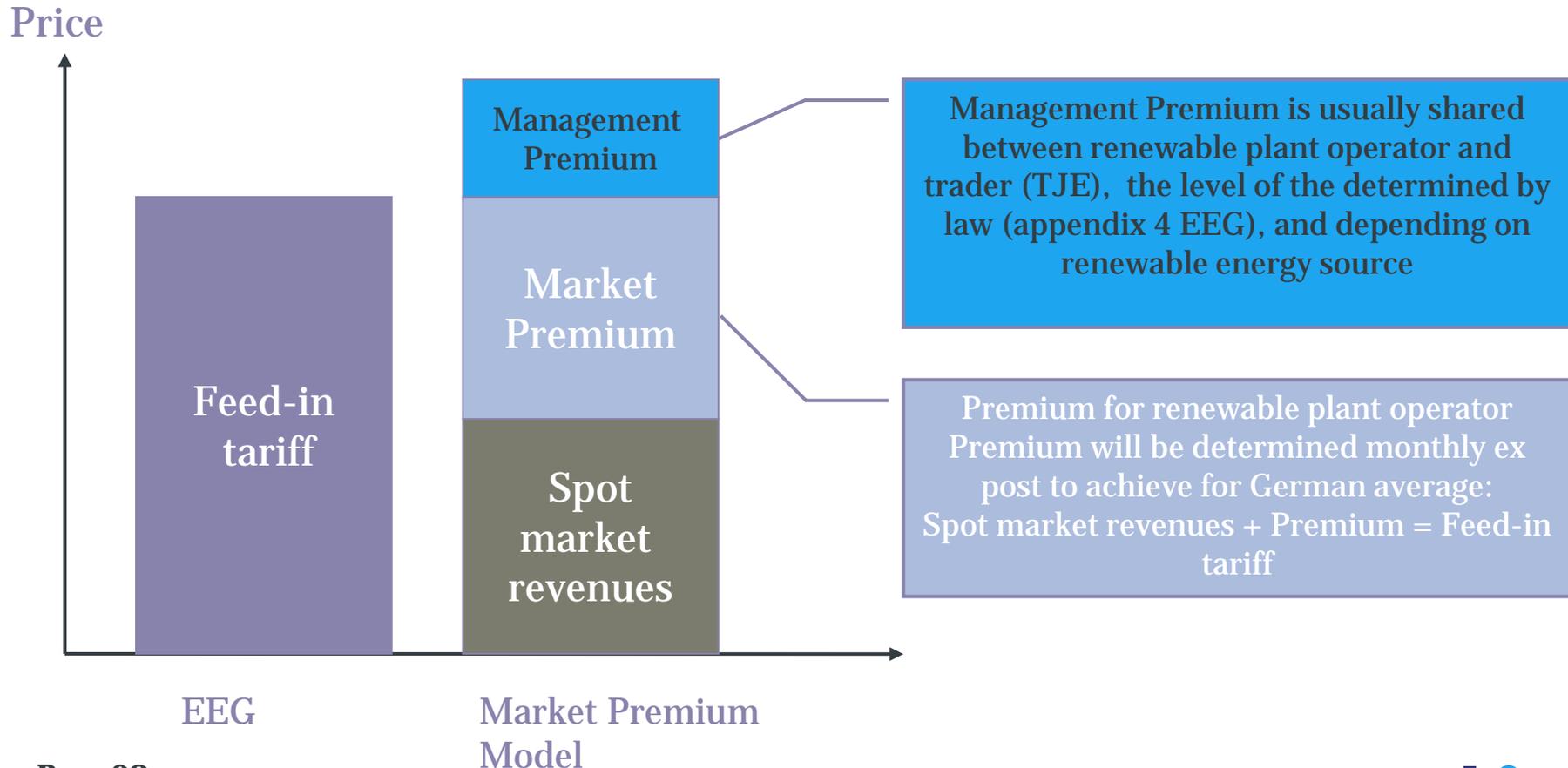
Source: <http://www.netztransparenz.de/de/EEG-Konten-Übersicht.htm>

# 5.4 Background EEG - Concept of EEG-Surcharge -



# 5.4 Background EEG -Market Premium Model -

## Current Scheme of the Market Premium Model - 33g EEG 2012 -



# 5.4 Background EEG - Wind Offshore -

## Wind Offshore – Degression Sec. 48 EEG 2014

- Comparison:

Compression model (Stauchungsmodell) – Base Model (Basismodell)

	<b>Stauchungsmodell (Absatz 3)</b>	<b>Basismodell (Absatz 2)</b>
<b>Vergütungsdauer</b>	<b>8 Jahre</b>	<b>12 Jahre</b>
<b>Bis 2017</b>	<b>19,4 Ct/kWh</b>	<b>15,4 Ct/kWh</b>
<b>2018</b>	<b>18,4 Ct/kWh</b>	<b>14,9 Ct/kWh</b>
<b>2019</b>	<b>18,4 Ct/kWh</b>	<b>14,9 Ct/kWh</b>
<b>2020</b>	<b>-</b>	<b>13,9 Ct/kWh</b>

Source Chart: BT-Drs. 18/1304, S. 224.

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