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# Germany's Erneuerbare-Energien-Gesetz and Incentives for Renewable Energy Production

By: James Stitt



The Renewable Energy Sources Act (“EEG”) was introduced in Germany over twenty years ago and has since influenced similar legislation in over eighty countries.[1] The EEG “forms the legal basis for the support for renewable energy sources in Germany.”[2] The most groundbreaking feature of the EEG is the feed-in tariff (“FIT”) system incentivizing corporations and even individuals to join in renewable energy production. FITs were first introduced in 1991 with the Electricity Feed-In Act (*Stromeinspeisungsgesetz*), the legislation that started Germany’s push toward renewable energy source production.[3]

The FIT incentivized the production of renewable energy sources by mandating the purchase of renewable energy by the electricity grid at above-market rates for a guaranteed twenty years.[4] The implementation of FITs is recognized as the driving force of Germany’s renewable energy production.[5] Because of the EEG, energy from renewable sources rose from 6.2% of Germany’s total electric consumption in 2000 to 31% in 2015,[6] 35% in 2018,[7] and more than 42% today.[8]

Under the EEG, the electricity grid of Germany has been completely transformed by the mass production of renewable energy facilities, especially onshore and offshore wind turbines and photovoltaic (“PV”) power, biomass, and geothermal installations.[9]

Faith in the FIT system started to wane, however, when electricity prices began to fall, hurting the profits of power conglomerates.[10] Amendments to the EEG cut FITs, reducing incentives and dampening the growth of solar infrastructure. [11] The 2017 amendments shifted the support mechanism for renewable energy production from FITs to sliding feed-in premiums (“FIPs”) determined in auctions.[12] The premium was financed by a surcharge on consumers’ electricity bills.[13] The EEG surcharge was meant to incentivize consumers to switch to electric power sources by lowering their electricity prices.[14]

The cost burden of FIPs has since shifted from the consumer to the federal government through the Climate and Transformation (“KTF”) special fund, totaling 177.5 billion euros.[15] Price relief for small businesses and private households motivated the abolition of the renewables surcharge because of Germany’s rising cost of electricity and gas.[16] The KTF special fund will be paid for from an anticipated global income of 6 billion euros and from national CO2 pricing and emissions trading.[17]

Increases in electricity and gas prices in Germany and much of Europe are exacerbated by Russia’s war in Ukraine.[18] Germany is the world’s largest consumer of Russian natural gas exports.[19] This reliance on Russia is a driving force for increasing renewable energy sources; not only to protect consumers but also to maintain Germany’s commitments under the Paris Agreement.[20] Due to the high prices, German generators have been pushed to “increase their reliance on polluting coal-fired power.”[21] The KTF special fund will lessen the cost burden on consumers and potentially promote an expedited transition to renewable energy sources that will lower Germany’s reliance on Russia for natural gas.

Germany’s Bundestag’s approval of the KTF special fund and the removal of the renewables surcharge was also accompanied by the approval of amendments to the EEG – known as the EEG 2023 – on July 7, 2022.[22] Most notably, these amendments show that Germany is not phasing out FITs entirely. The EEG 2023 included the addition of two new solar FITs, introduced partly to combat the issue of underutilization of large areas of rooftops.[23] Up to this point, owners had only been motivated to utilize roof surface area for PV systems up to their own consumption, nothing greater.[24] Now “[o]wners of rooftop PV systems can now decide to accept a smaller feed-in-tariff and use some of their rooftop power themselves or receive an additional remuneration on top of the standard feed-in tariff if they feed in 100% of their rooftop power.”[25]

The EEG 2023 also provided expedited targets for gross electricity consumption from renewable energy sources. The German government pledged that by 2030, wind and solar energy would account for 80% of total electricity production (up from the previous target of 55-65%[26]), and by 2035, electricity production would be 100% carbon neutral.[27] This pledge expedites the 80% target by twenty years. Previously, a version of the EEG in 2021 had targeted 80% by 2050.[28]

Although it appears that Germany may not be phasing out FITs as rapidly as was envisioned, the EEG 2023 includes an overall increase in auctions and a decrease in tariffs.[29] However, this trend predicts that FITs could be entirely phased out by 2027 “as renewables become an increasing commercial presence in the market.”[30] Even though FITs may soon be entirely replaced by auctions, and potentially even a self-regulating market, it is impossible to dispute their astounding effectiveness in increasing Germany’s renewable energy infrastructure.

**James Stitt is a Staff Editor at CICLR. The image was photographed by Andreas Gücklhorn.**

[1] Cristina Brooks, *Germany Launches Full-scale Renewable Power Transition in Easter Package*, S&P Global (Apr. 14, 2022), <https://cleanenergynews.ihsmarkit.com/research-analysis/germany-launches-fullscale-renewable-power-transition-in-easte.html> [<https://perma.cc/YB7P-P5V3>].

[2] AURES II, *Auctions for the Support of Renewable Energy in Germany*, 7 (Dec. 2019), <http://aures2project.eu/wp->

content/uploads/2020/04/AURES\_II\_case\_study\_Germany\_v3.pdf [https://perma.cc/99UL-DPVG].

[3] *Id.*

[4] Lincoln L. Davies & Kirsten Allen, *Feed-in Tariffs in Turmoil*, 116 W. Va. L. Rev. 937, 949 (2014).

[5] John C. Dernbach, *Legal Pathways to Deep Decarbonization: Lessons from California and Germany*, 82 Brook. L. Rev. 825, 854-55 (2017).

[6] *Id.* at 855.

[7] AURES II, *supra* note 2.

[8] Brooks, *supra* note 1.

[9] Davies & Allen, *supra* note 4, at 949, 959.

[10] Timothy Rooks, *Germany Gets Solar Power Boost Amid Energy Crisis*, Deutsche Welle (Aug. 8, 2022), <https://www.dw.com/en/photovoltaic-solar-panel-energy-can-germany-regain-its-solar-power-crown/a-62704103> [https://perma.cc/5A3K-BRT5].

[11] *Id.*

[12] AURES II, *supra* note 2.

[13] *Id.*

[14] Kerstine Appunn, *Germany's 2022 Renewables and Energy Reforms*, Clean Energy Wire (July 6, 2022, 14:08), <https://www.cleanenergywire.org/factsheets/germanys-2022-renewables-and-energy-reforms> [https://perma.cc/D6P3-8TNP].

[15] *170 Billion Euros For Energy Supplies And Climate Protection*, Ger. Fed. Gov't (July 27, 2022), <https://www.bundesregierung.de/breg-en/search/climate-and-transformation-fund-2066034> [https://perma.cc/L47Q-AG6M].

[16] *Id.*

[17] *Id.*

[18] Brooks, *supra* note 1; *see also* Rooks, *supra* note 10.

[19] Brooks, *supra* note 1.

[20] Brooks, *supra* note 1.

[21] Brooks, *supra* note 1.

[22] Marian Willuhn, *Germany Raises Feed-in Tariffs for Solar Up to 750 kW*, PV Mag. (July 7, 2022), <https://www.pv-magazine.com/2022/07/07/germany-raises-feed-in-tariffs-for-solar-up-to-750-kw/> [https://perma.cc/8V2Q-RYDX].

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] Brooks, *supra* note 1.

[27] Rooks, *supra* note 10.

[28] AURES II, *supra* note 2.

[29] Brooks, *supra* note 1.

[30] *Id.*