

10 years Renewable Energies Act (EEG) – looking back on a success story

Renewable energies have witnessed a dramatic development in Germany throughout the last ten years. This would not have been possible without the Renewable Energies Act, which has consistently been improved.

by **Dipl.-Ing. agr. (FH) Martin Bensmann**



The three letters EEG stand for fundamental changes in Germany's energy supply. They mark a new beginning, thinking along new lines, the turning point in energy and the protection of the climate. These three letters symbolize one of the most successful laws of the last few years: EEG, the German abbreviation for Renewable Energies Act. Its first version went into effect on April 1, 2000, having been adopted by the German Parliament on February 25, 2000. The particular aspect about this law is that it was a result of a parliamentary initiative, rather than having been drafted on ministerial level. The prime father of this law is parliamentarian Hans-Josef Fell of the faction Bündnis 90/The Greens. At that time he was the research policy spokesman of his faction, today he is spokesman for energy.

“The driving force of the EEG, at that time, was the market launch of all renewable energies. At the time, only wind energy and hydropower had made some progress after the adoption of the power feeding act in 1991. All other renewable energies were not really in focus”, Fell recollects. As a member of the city council, he had introduced a cost-covering remuneration for solar electricity in his hometown of Hamelburg in northern Lower Franconia in 1993 and saw the great success of this model. He had understood very quickly that renewable energies merited a fair compensation.

Chance for regional value creation

In addition to the need for a market launch, the Green politician also understood that renewable energies contributed to climate protection and improved the security of

supply. “Even if the price of crude oil had dropped to an all-time low, I was fully aware of the finite nature of this resource”, Fell explains. In addition to this, the environment politician was adamant that renewable energies were a source of regional value creation and that they created jobs.

Hence, Fell insists, a compensation rate had to be fixed, unlike to the electricity injection law, where compensation was coupled to the price of electricity. As the electricity market was beginning to be deregulated, a political opportunity arose. Early in 1999, Fell drafted a key issues paper for the Green faction, which he completed in summer 1999. After his faction had adopted the draft, talks with the SPD faction started. Hermann Scheer turned out to be a fervent supporter and advocator of the proposed measures.

At the same time, Fell and his peers Volker Oschmann and Carsten Pfeiffer, who is still working for Fell today, drafted a bill. “We put up the bill for review with the SPD in September 1999. Then, there was that group of four, consisting of Hermann Scheer and Dietmar Schütz of the SPD faction and Michael Hustedt and myself representing the Greens”, Fell says in retrospect. According to Scheer, energy legislation experts external to the Economic ministry who knew the ropes and exposed the weak points, were also involved.

A political party was put upside down

“The fact that the SPD helped the bill to adoption, later during voting in the Bundestag parliament, was the historic contribution of Hermann Scheer”, Fell underlines. Scheer had caused the CDU, the party of former federal chancellor Kohl – which has not changed its character to this day – to take the road to renewable energies. Scheer says: “The most important thing was that a party had been turned upside down.” At first, however, renewable energies had had to be raised into the awareness of the faction members as an issue of urgency. This had been a long process.

He had advertised renewable energies at many constituency meetings of SPD parliamentarians. Smiling, he adds: “The SPD leadership at that time essentially did not understand what was going on. Many had underestimated how strong the consent had already become within the SPD faction.” Smartly enough, he had already man-



Hans-Josef Fell

aged at the beginning of the parliamentary term in 1998 that all reports on renewable energies which the SPD faction discussed were routed to his desk.

For strategic reasons, Scheer and those around him then issued an ultimatum to the German government. “The point was”, Scheer explained, “that they were to present a draft for amending the electricity feeding act by July 1, 1999.” He had drafted the ultimatum and seen it through. However, the German government did not present a draft. So the deadline was extended until October 1, 1999. No draft was tabled even by this extended deadline. The demand for submitting a draft and the failure to comply with it were important, Scheer says, because this was sufficient legitimization for him to draft a bill.

Resistance of the coal faction overcome

The procedure, then, as Scheer says, had been that the electricity feeding act was taken as a basis. Points requiring amendment were identified. Scheer overcame the opposition of the coal faction within the SPD with a clever move: “The coal proponents had come to a working group meeting that was open to the faction and at which the draft bill was on the agenda with the obvious intention of obstructing progress. When we had the bill before us and knew which renewable energies were under discussion, I proposed that mine gas should be included. This proposal came as a total surprise to the coal proponents because mine gas is not a renewable energy”, the energy expert explains.

He had suggested mine gas because landfill gas also was to be included in the new law and had been included in the electricity feeding act as well. Besides, his intention was to exploit the large potential which was too expensive to be sent to the flare. Finally, mine gas was methane and had a high impact on the climate.

New principles had been in the focus of the new draft bill. Hence, all renewable energies should be considered. The different compensation tariffs for injection had been clear and were to be cost-covering. At that time, the development of cost-covering compensation had originated from Aachen, where the city council had adopted the first such model scheme. In total, about 30 cities and towns in Germany then followed suit.



Hermann Scheer

The Aachen model scheme set a major example

The then-acting economics minister for North Rhine Westphalia, who was the supervisory authority for energies, had been averse to the cost-covering compensation model. The fact that he did finally agree to its adoption is explained by Scheer as follows: “I was able to win Johannes Rau to oppose his economics minister. We had agreed that Rau was to write a letter to me in which he welcomed the cost-covering compensation practiced by Aachen and that I should then publish that letter.” This would outplay the economics minister, who would then have to approve of the model.

As regards the further development of the EEG, the question of compensation payment had to be addressed. This was a very delicate question because the compensation scheme should not be in conflict with European regulations. The matter had not been solved when the EEG bill came up for the first reading in the Bundestag Parliament; the parties were still arguing about it. And the feed-in tariffs had intentionally not been included in the bill for the first reading. The then-economics minister Werner Müller ostentatiously missed the first reading.

Scheer was firmly convinced that the EEG bill would be torpedoed before it came up for voting in Parliament on February 25. And that happened 14 days before the voting took place. In a cabinet meeting, Müller claimed that the EEG bill created serious problems under European law and was contrary to European regulations. If the law was rejected by treaty violation proceedings by the European Union, the gov- ▶

ernment would have to pay back billions of Euros paid out as feed-in compensation.

Werner Müller's game

“Müller then requested the cabinet to ask us not to introduce the EEG bill for the second and third readings unless European Competition Commissioner Monti had approved of state aid. The cabinet did not take a vote on this, which Müller interpreted as consent to his intervention against the EEG bill”, Scheer explained blankly.

One day after the cabinet meeting, the CDU had organized a hearing of the EEG bill, which was chaired by Matthias Wissmann, then-chairman of the Economics Committee. He read out the demand of the cabinet with pleasure. “I immediately took the floor and said that on behalf of both governing factions I declared we would not respond to this request. It was really a lively time after that. I had not spoken to anyone about what I had said there”, Scheer admits.

Asked why he had not been wavering a bit, he said: “Because it was clear to me that the



Johannes Lackmann

bill would be killed if we did that.” After the cabinet’s request, he immediately called Ludwig Stiegler, then-deputy faction leader and spokesman on internal and legal affairs. He made it clear to Stiegler that this request should not be responded to under any circumstances.

A few days later, a meeting of the acting SPD faction leadership was called, where Stiegler seconded Scheer in every respect. “We were successful in getting the acting

faction leadership to resolve that we would not respond to the request“, Scheer adds. And Stiegler argued that if we did, we were admitting entirely new European legislation if the EU Commission was entitled to intervene with a legislative procedure.”

Contract violation proceedings against Germany

Only six days after the EEG act had entered into force on April 1, 2000, the EU initiated contract violation proceedings against Germany. Scheer was convinced: “They were prepared. They had been instigated. They had been instigated from within the government, from the economics ministry; that was obvious.” A little more than a year later, on March 13, 2001, the European Court of Justice decided that the EEG was not anti-competitive.

On the part of the Renewable Energies Associations, Johannes Lackmann, then-president of Bundesverband Erneuerbare Energien e.V. (BEE), was close to the hub of political events in Berlin. In retrospect, he says that, without his faction colleague Dietmar Schütz, Scheer would not have



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been able to win his faction over. Schütz was considered not to be ideologically minded and had a good standing within the faction.

Michaele Hustedt, then spokeswoman for energy policy for Bündnis 90/The Greens, also sees Schütz as a key person in the process. "Dietmar Schütz, who was also by the side of Hermann Scheer, was the person to persuade the other half of the faction. Those, I should say, who were even more structurally conservative than Hermann Scheer was. From that angle, Dietmar Schütz's part was less spectacular externally, but he played a very important role within the SDP faction because he was giving the whole thing a respectable social complexion", Hustedt summarizes. Besides, economics minister Werner Müller had not been rooted very deeply in the SPD. Hustedt: "Now, if it had been Wolfgang Clement, things would probably have been more difficult."

Allocation mechanism with pitfalls

Whereas politics and the associations were agreed about the obligations of



Josef Göppel

acceptance and compensation, the ideas concerning the allocation of costs and the injected quantity of electricity were rather contrary to each other. Lackmann says that the federal economics ministry in Bonn was favoring physical allocation at that time. However, after consultations with the energy industry, the ministry

dropped this idea and preferred the financial allocation model. "This made us prick up our ears because we were sure that there was something fishy. We had an analysis of financial allocation made and were told that this was very much like the Kohlepfennig tax and as such constitutionally insecure", Lackmann adds.

Interestingly enough, information on how the allocation mechanism would work was obtained by Lackmann directly from Preußen Elektra in Hanover. He had a very helpful contact there. On Lackmann's request, this person even went to Berlin and explained to parliamentarians there how the allocation mechanism could work. And that scheme was finally adopted.

2004: Göppel votes in favor of EEG

The pioneers of the EEG found a supporter of the act in the CSU politician Josef Göppel, MP since 2002. He had been the only member of the CDU/CSU opposition to vote for the first amendment of the EEG 2004 in German Parliament. He recalls: "It ▶

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was a fierce battle, to and fro, in 2004. In fact, the Union had actually been willing to vote for the bill. Finally, however, reasons of party tactics probably dictated the No to a bill proposed by the Red-Green government.”

For Göppel, the EEG is the central political tool for the energy change in Germany. It had raised the awareness in millions of minds that electricity can virtually be provided by everyone. However, Göppel is also convinced that: “We must make renewable energies fit for the market so that one day an EEG is not necessary any more. This is the target, and it will be reached in Germany around 2015.”

The amendment in 2004 was also very important because the bonus for renewable primary products had given the biogas sector a vast impetus. “We had proposed the bonus at that time because we were running short of waste input. The number of biogas plants fermenting commercial kitchen and food industry waste was rocketing after the first EEG. The plants were depriving each other of the residue materials and as a consequence many biogas plants were running only at part

load”, Josef Pellmeyer, president of Fachverband Biogas e. V., and a biogas producer himself, explains the situation.

Stimulating understanding for the bonus for renewable primary products

The bonus for renewable primary products had made energy crops attractive to farmers. Before 2004, energy crops were grown on set-aside land, but with only the basic compensation of ten cents a kilowatt-hour, cultivation was hardly profitable. “We from the associations had to make politicians aware of the necessity of such a bonus and did a lot of campaigning. Without the bonus, the situation for the biogas sector would have been bad in Germany after 2004”, Pellmeyer says in retrospect.

Besides, the bonus had been very important for the biogas industry as it enabled farmers to invest in this segment in order to earn an additional income in view of the desolate prices for milk and cereal crops paid to growers. “Today we can show that biogas production helps many farmers survive”, Pellmeyer underlines. At that time, economic politicians had kept saying

that fixed feed-in tariffs were not a panacea for farmers.

Looking ahead, Pellmeyer hopes for a degree of steadiness of the EEG and that it will enable the survival of farms. With regard to the amendment of the EEG act scheduled for next year, the biogas association man says: “We need a ‘calm policy’ amendment, no precipitate action. Biogas should be developed further in every respect, such as compensation for the production of peak load electricity.” ◀

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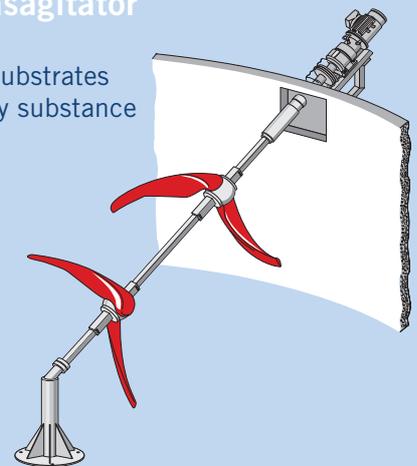
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