

Good news(?) on recent amendments to the regulatory framework energy storage facilities

Energy storage technology webinar

29 June 2021

Overview of the amendments

Energy Industry Act – Regulatory Framework

Old: facilities for the storage of electricity (no statutory definition in Energy Industry Act)

New: definition of „energy storage facilities“ (§ 3 Nr. 15d EnWG)

Regulatory implications: Electricity DSOs / TSOs must not operate such facilities

the rule: DSO/TSO may open tender to build and operate storage facilities for system use, if needed (§ 11a EnWG); exceeding capacity may participate on the market

exemption: BNetzA approval for operation of storage facility by DSO/TSO (§ 11b EnWG)

Renewable Energy Sources Act – EEG levy

Old: Relief from the „double“ payment of EEG levy with restrictions in case of „bi-valent“ storage facilities

New: restrictions removed (§ 61l Sec. 1a EEG)

Renewable Energy Sources Act – H₂ production

Renewable electricity consumed to produce H₂

Full exemption from EEG levy, § 69b EEG

The systematic view and outlook on storage facilities in the regulatory framework



Historically: only gas storage facilities part of the regulated energy assets (essential facilities)

Current regulatory framework

- energy (electricity) storage facilities are *not* a regulated asset
- Storage facilities are energy consumer *and* power production facility
- *except* for storage as part of the electricity system

The future

- BNetzA (Fed. Regulatory Authority) do *not yet* regard storage facilities as essential facilities as flexibility is available on the market even without storage facilities
- No „new“ sector-related regulatory framework on the horizon (neither BNetzA nor EU)

Our view

- No dedicated sector regulation is positive, but has obstacles on the cost side (electricity costs)
- Not likely to change even if storage facilities participate more on the market (when share of renewables generation has grown high)
- But: subject to competition law

Cost factors to be considered in business cases

EEG levy reduction in own-consumption models (own-production and consumption of electricity)

EEG levy / CHP Act levy and Offshore levy exemption when feeding-in stored electricity and for storage losses (§ 61l EEG, § 27b KWKG, § 17f EnWG)

avoided grid fee payments by the DSO (§ 18 StromNEV)

reduction or exemption from **grid fees** (§ 118 EnWG and § 19 StromNEV)

storage facilities sourced by only renewables are **regarded as renewable energy producer** (§ 19 EEG)

batteries used in combination with new renewable energy sources may participate in innovation tenders and profit from a **fixed market premium** according to EEG (Innovationsausschreibungsverordnung)

electricity tax reduction for batteries (§ 5 Sec. 4 StromStG)