

Electricity Trade and Regulatory Policy

Project Director: Univ.-Prof. Dr. Eberhard Bohne

Project Assistant: Sabine Frenzel

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The objective of the research project was to analyse the regulatory tasks and responsibilities of the state in the liberalized German electricity market. The creation of a workable competition is a precondition for secure supply, low prices and a sustainable electric power supply. The German electricity market was liberalized in a first step in 1998 by the Energy Industry Act (EnWG), which transposed the 1996 EU Electricity Directive. The 2003 Electricity Directive was implemented through amendments in the Energy Industry Act (EnWG).

Main results:

1. Electricity trade does not work smoothly although area monopolies were abolished several years ago.
2. Regulatory policy has an essential influence on electricity trade. The regulatory framework for network access and unbundling caused trade barriers.
3. Until 2004, network access was based on a non-binding agreement. From the perspective of the market participants this was the cause of overpriced charges, a lack of enforcement and low transparency.
4. From the perspective of the market participants, the regulatory framework for network access and unbundling created disadvantages since information exchange continued to take place within vertically integrated energy supply companies.
5. The usual effect of vertical investment is that the company which sells shares adapts its behavior to the investor, thereby giving up its competitive orientation.
6. The 2003 EU Electricity Directive regulates legal and organizational unbundling of the networks, except for energy supply companies with less than 100.000 costumers. Access to the networks is regulated as well. The objective is to lower charges and tariffs.
7. The regulatory tasks and the responsibility of the state are to be evaluated against the principles of the “social market economy” (Soziale Marktwirtschaft) and “shared responsibility” (Gewährleistungsverantwortung”).
8. The concept of shared responsibility obliges the state to create a legal framework for the achievement of general welfare, while its concrete implementation should be partially or fully delegated to societal actors.
9. The Energy Industry Act (EnWG) 2004 does not enable private parties to assume independent responsibilities for the implementation. Rather it is the state, which through the Federal Network Agency (Bundesnetzagentur) enforces the rules.

10. The regulatory concept fails to provide for the transfer of market information from market participants to the regulatory agency. Deficiencies with regard to information, monitoring and enforcement are to be expected. It is unlikely that the new concept will generate effective competition in electricity trade together with a reduction in network charges and electricity prices.
11. A concept of regulated self regulation, which complies with the principle of the “shared responsibility” (Gewährleistungsverantwortung) might better address problems in the field information, monitoring and enforcement.
12. Following the concept of regulated self regulation, the state should be confined to creating a legal framework. This should be supplemented by an agreement with associations, which is to be authorized by the Federal Ministry of Economy. The process of reaching an agreement must be regulated in order to provide for transparency and participation.

The report will be published soon.