

TASKS AND OBJECTIVES

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Pursuant to sec. 54 para. 2 of the Energy Act (EnWG) the central tasks of the Bavarian Regulatory Authority are in particular the regulation of the power distribution systems the monitoring of the regulations regarding unbundling and the control of abuse practices of network operators.

Network Connection and Third Party Access

The general conditions for network connection (Netzanschluss) and its utilisation for the electricity supply in low voltage and for the gas supply in low pressure are provided for in the provisions of the Low Voltage Connection Regulation (Niederspannungsanschlussverordnung - NAV) and the Low Pressure Connection Regulation (Niederdruckanschlussverordnung - NDAV), respectively.

The conditions for third party access (Netzzugang) to the electricity and gas networks to be applied by system operators are provided for in the Electricity Network Access Regulation (Stromnetzzugangsverordnung - StromNZV) and in the Gas Network Access Regulation (Gasnetzzugangsverordnung - GasNZV), respectively.

Regulation of Energy Networks (electricity and gas)

The electricity and gas networks constitute a so-called natural monopoly. Therefore the Regulatory Authorities have to ensure that all market participants have non-discriminatory third party access and that the requirements for a secure, reliable and efficient energy network system are met.

On 1st January 2009 the Incentive Regulation (Anreizregulierung) of the electricity and gas networks was introduced. Consequently, the until then existing requirement of authorization of network tariffs (Netzentgeltgenehmigung) for third party access to the electricity and gas networks pursuant to sec. 23a EnWG on cost base expired. The system of Incentive Regulation is based on a nationwide efficiency comparison (Effizienzvergleich). The objective of such efficiency comparison is to create incentives for an efficient performance of the network operators.

Since 1st January 2009 the Incentive Regulation prescribes the network operators upper limits for the admissible complete revenues from the network tariffs per calendar year, which are called annual revenue caps (kalenderjährliche

Erlösbergrenzen). Those annual revenue caps are transformed into network tariffs for third party access by the network operators themselves according to the rules of the Electricity Network Tariff Regulation (Stromnetzentgeltverordnung – StromNEV) or of the Gas Network Tariff Regulation (Gasnetzentgeltverordnung – GasNEV), respectively. The network operators have to publish the respective network tariffs which are valid for their network on their homepage. These network tariffs have also to be disclosed upon everyone's request in writing.

Unbundling

Unbundling (Entflechtung) signifies that network systems have to be run separately from other energy undertaking activities (generation and supply). The objective is a energy supply as secure, cost-efficient, customer-friendly, efficient and environmentally compatible as possible. Therefore, it is required that energy undertakings (Energieversorgungsunternehmen) strictly separate the electricity and gas network operation from other activities.

Energy undertakings have to implement measures in order to separate the network operation legally, operationally, informationally and with regard to accounting in order to ensure that an integrated energy undertaking grants the same conditions for third party access to the respective network to external suppliers (energy traders) and their own supply operation. The energy undertakings are responsible for the correct legal implementation of the abovementioned unbundling measures.

Control of abusive practise

If there are reasonable indications, that the operator of a electricity or gas network applies abusive practise (Missbrauch) when granting network connection or third party access to its network, respectively, the involved party can apply for the execution of an abusive practise proceeding (Missbrauchsverfahren) according to sec. 31 para. 2 of the Energy Act (EnWG).

Abusive practise means, for instance, that a network operator discriminates an energy supplier with regard to the network operation in comparison to other competitors.

Closed Distribution Systems

The provision concerning closed distribution systems (geschlossene Verteilernetze) in sec. 110 of the Energy Act (EnWG) replaced with the amendment of the Energy Act (EnWG) in 2011 a provision concerning object systems (Objektnetze) which partly was not compatible to Community law. Closed distribution systems are energy distribution networks which are only in parts subject to the regulation by

the Regulatory Authorities. The classification of a energy network as closed distribution system is subject to strict requirements (see sec. 110 para. 2 EnWG).

Customer Supply Facility

With the amendment of the Energy Act in 2011 definitions of a customer supply facility (Kundenanlage) pursuant to sec. 3 no. 24 EnWG as well as of a customer facility for the operative self-supply (Kundenanlage zur betrieblichen Eigenversorgung) pursuant to sec. 3 no. 24a EnWG were newly included. A customer supply facility differs from energy networks in legal regard by not being objected to the requirements of regulation. The typical example of a consumer distribution facility is the internal installation system of an apartment building which is installed after the network connection safety fuse (Hausanschlussicherung) or after the main isolation system (Hauptabsperreinrichtung), respectively, and over which the final customers receive energy supply. For further information about the definitional elements of a customer supply facility please have a look at the provisions of sec. 3 no. 24a and b EnWG.