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First Act
amending the Renewable Energy Sources Act

of 16 July 2003

The Bundestag has adopted the following Act:

Article 1

Amendment of the Renewable Energy Sources Act

The following § 11a is hereby added after § 11 of the Renewable Energy Sources Act of 29 March 2000 (BGBl I p. 305), as last amended by Article 7 of the Act of 23 July 2002 (BGBl I p. 2778):

"§ 11a

Special equalisation scheme

(1) The Federal Office for Industry and Export Controls shall, on request, restrict the part of the electricity pursuant to § 11(4), first sentence, which is delivered by utility companies to final consumers which are companies in the manufacturing sector in order to reduce the costs arising from the delivery of the amount of electricity for those companies, provided that this does not jeopardise the objectives of the Act and the restriction does not conflict with the interests of all electricity consumers.

(2) The restriction may only take place insofar as the company can demonstrate whether and to what extent

1. its electricity consumption from the grid for the general supply has in the last 12 completed calendar months exceeded 100 gigawatt hours at a point of supply,
2. the ratio of the electricity costs to the gross value added of the company exceeds 20%,
3. part of the amount of electricity is supplied to the company in accordance with § 11(4), first sentence and
4. the costs arising from the compensation paid in accordance with § 11(4), first and fifth sentences, and the average electricity supply costs per kilowatt hour of the utility company in the last 12 completed calendar months have had a significant adverse effect on the competitiveness of the company.

Utility companies shall be obliged to indicate to the company that part of the electricity supplied and the cost differentials by means of a declaration by a chartered accountant or sworn auditor. Proof that the conditions of first sentence, point 3 have been met and of the differential costs shall be by deposition of the declaration; proof that the remaining conditions of the first sentence have been met shall be by means of the electricity supply agreements for the last 12 completed calendar months and certificates from a chartered accountant or sworn auditor. The first to third sentences shall apply accordingly for independent parts of the company.

(3) For the purposes of the restriction of the part of the amount of electricity supplied, a certain percentage of the total electricity exceeding 100 gigawatt hours per year supplied to the company by the utility company from the grid for general supply at a point of supply shall be fixed. The percentage shall be determined in such a way that the differential costs for the amount of electricity supplied relating to the total amount of energy exceeding 100 gigawatt hours amount to 0.05 cents per kilowatt hour on the basis of the compensation expected in accordance with § 11(4) first and fifth sentences.

(4) The decision shall in principle take effect vis-à-vis the applicant and the utility company within four weeks of receipt of the complete application. The decision shall be valid for one year.

(5) A decision may be renewed on request. In this connection the consequences of the preceding decision shall not be taken into consideration. Where the framework data remain unchanged, the Federal Office for Industry and Export Controls may in a simplified examination procedure dispense with the submission of certain application documents.

(6) The Federal Office for Industry and Export Controls shall be subject to the supervision of the Federal Ministry for Environment, Nature Conservation and Nuclear Safety in carrying out its duties under this Act.

(7) § 11 shall apply *mutatis mutandis* for the equalisation of the amount of electricity remaining at utility companies as a result of the application of paragraphs 1 to 5.

(8) The application of paragraphs 1 to 7 shall be covered by the progress report referred to in § 12."

Article 2

Further amendments of the Renewable Energy Sources Act

§ 11a of the Renewable Energy Sources Act of 29 March 2000 (BGBl I p. 305), as last amended by Article 1 of this Act, is hereby repealed.

Article 3

Entry into force

Subject to the second sentence, this Act shall enter into force on the day after its publication. Article 2 shall enter into force on 1 July +2004.

The constitutional rights of the Bundesrat shall not be affected.

This Act shall be published in the Federal Law Gazette.

Done at Berlin, 16 July 2003-11-24

The Federal President,
Johannes Rau

The Federal Chancellor
Gerhard Schröder

The Federal Minister for Environment,
Nature Conservation and Nuclear Safety
Jürgen Trittin