ENERGY UPDATE – GERMANY 2026


The change of government in May 2025 also brought about a change of direction in German politics. The current government‘s core objectives are to strengthen the economy through innovation, reducing bureaucracy, and investments, with the aim of making Germany competitive in the long term. This is particularly evident in the energy sector, which saw numerous amendments in 2026. Below are brief summaries of four notable changes.

## 1. Construction Law Privileges for Battery Storage Systems

On 4 December 2025, the German Bundestag approved the Geothermal Energy Acceleration Act (Bundestags-Drucksache 21/3101). This act specifically amended the German Construction Code (BauGB): In Section 35 paragraph 1 nos. 11 and 12 BauGB, a socalled privilege was added for battery energy storage systems (BESS) in outer areas. This means that BESS properties are permissible in areas outside zoning laws because they typically belong there due to their function.

Previously, there was no explicit privilege for battery storage facilities; they were partially covered by Section 35 paragraph 1 no. 3 BauGB as public electricity supply facilities. In some cases, however, permissibility had to be obtained under Section 35 paragraph 2 BauGB (“other projects”), which requires further conditions to be met. As these conditions are reviewed by local authorities, there were significant differences in decisions made at the local level, so clarification by the legislature is therefore a welcome development.

The privilege covers electricity storage facilities colocated with an existing plant generating renewable energy (no. 11) as well as battery storage facilities with a capacity of at least 4 MW, which are located no more than 200 meters from a substation or power plant and have a maximum size of 50,000 square meters (no. 12). This privilege is no automatic entitlement to a permit; public interests must still be examined. According to Section 35 paragraph 3 BauGB regional planning, urban development, and environmental interests are decisive for grating a permit. Therefore, even if a project is granted privileged status, this does not automatically mean that it will be approved. The project could otherwise conflict with the public interests mentioned above. In particular, projects will not be granted a permit if, for example, they promote urban sprawl (Zersplitterung) or conflict with nature and landscape conservation, as well as emissions control.

Restrictions are therefore imposed in particular by the required colocation, the distance rules, the minimum output, and the area limit. This is particularly problematic for large-scale storage facilities and stand-alone systems. Therefore, it remains to be seen whether this change leads to more permits for BESS projects.

## 2. $CO_2$ Storage – Change in the Legal Framework

On 28 November 2025, an amendment to the Carbon Dioxide Storage Act (KSpG) came into force, fundamentally changing the legislature‘s stance on $CO_2$ storage (Carbon Capture and Storage – CCS). The aim of the amendment is to enable CCS on a large scale in the future. Under the previous legal situation, this was only permitted for research purposes. The reason for the change is that the current federal government believes that CCS is a necessary technological means of moving away from fossil fuels in very energy-intensive industries. CCS can be particularly helpful in achieving climate neutrality by 2045, which is important in light of the European Net Zero Industry Act (EU Regulation 2024/1735). Above all, the changes enable the storage of $CO_2$ in underground rock layers for commercial purposes. The change of name from the Carbon Dioxide Storage Act (KSpG) to the Carbon Dioxide Storage and Transport Act (KSpTG) also shows that the transport of $CO_2$ is now also covered and regulated. For the first time, there is now a legal framework for the transport of $CO_2$ via pipelines. This enables the development of an independent infrastructure, as previously transport was only possible by truck or train. The construction and operation of such pipelines is also assigned overriding public interest (Section 4 paragraph 1 sentence 3 KSpTG), which considerably simplifies the approval process. This assigns CCS projects extremely high importance for the common good, and when considered alongside other concerns such as nature conservation or the interests of local residents, it is generally given priority. This is a legal provision designed to speed up procedures.

## 3. Data centers: New emission limits from 1 July 2026

To implement the Energy Efficiency Directive (EU Directive 2023/1791), the German Bundestag passed the Energy Efficiency Act (EnEfG) in 2023. Chapter 4 of EnEfG, in particular the Sections 11 to 15, stipulates specific energy efficiency requirements for data centers.

In particular, data centers that go into operation after 1 July 2026 are subject to a new energy efficiency requirement under Section 11 paragraph 2 EnEfG. According to this, the power usage effectiveness (PUE) must be less than or equal to 1.2. This figure is a key indicator of the energy efficiency of data centers. It represents the ratio of the data center‘s total energy consumption compared to the energy consumption for IT needs alone. The lower the value, the more energy-efficient the facility is. Current data centers have an average PUE of around 1.7.

In addition, an increasing proportion of energy must be reused. After 1 July 2026, this will initially be 10 %, rising to 15 % from 1 July 2027, and finally to 20 % from 1 July 2028.

These requirements have an impact on the practical planning of the data center, as a lot of energy is consumed for cooling and system redundancy in particular. In addition, the question of exhaust heat utilization arises as a location and cooperation issue, as this can increase energy efficiency.

## 4. Customer installations: Exception/Transitional Rule in the Electricity Grid

On 28 November 2024 the European Court of Justice ruled (C 293/23), based on a request for a preliminary ruling from the German Federal Court of Justice (EnVR 83/20), that the term "customer installation" as defined in Section 3 paragraph 24a of the German Electricity and Gas Supply Act (EnWG) is incompatible with the European Electricity Directive (EU Directive 2019/944).

Under the previous legal situation, locally established electricity grids such as tenant electricity projects, neighborhood solutions, or grids on industrial sites were considered so-called customer installations. A common example of a customer installation was a tenant electricity system, in which the electricity generated, for example, by a solar system on the roof was passed on internally to all tenants within the same building.

The decision meant that the electricity grid, which was previously classified as a customer system, is now often classified as a distribution grid subject to regulation. Such grids are subject to significantly more extensive regulatory requirements, as grid operator obligations apply to them. This leads, for example, to the imposition of grid fees.

In order to allow more time for implementation of the European Court of Justice decision, the German Bundestag passed a retroactive protection clause on 13 November 2025 (BundestagsDrucksache 21/2793). According to a draft of the Committee on Energy and Economic Affairs the EnGW was amended. The new Section 118 paragraph 7 EnWG now states: "Energy facilities [...] that were connected to an energy supply network by 23 December 2025, shall be subject to requirements relating to the regulation of energy supply networks [...] only from 1 January 2029."

According to the explanatory memorandum, the intention is for the legal framework to be adapted, potentially at a European level. However, among other things, the operators of affected customer facilities are to be given until the end of 2028 to adapt to the increased regulatory requirements.

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