

# Current regulatory debates in Germany and Europe

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Energie  
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History of regulation in Germany

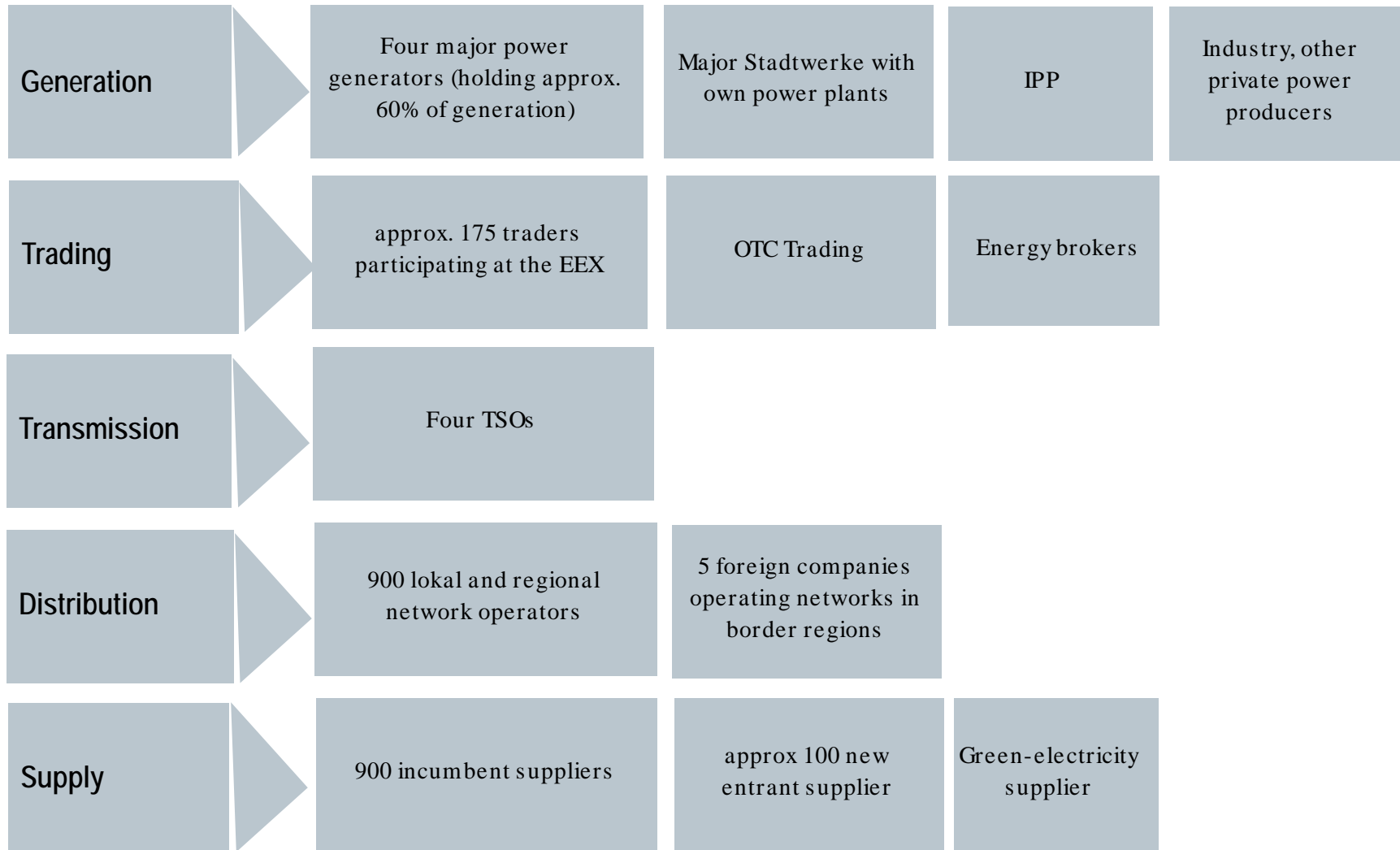
Incentive Regulation in the German Electricity Supply Industry (Yes, we can)

- › “Mass production regulation”
- › The TSO situation

The building of a “Deutsche Netz AG”

The Third Package of the European Commission

# Structure of the German Electricity Supply Industry

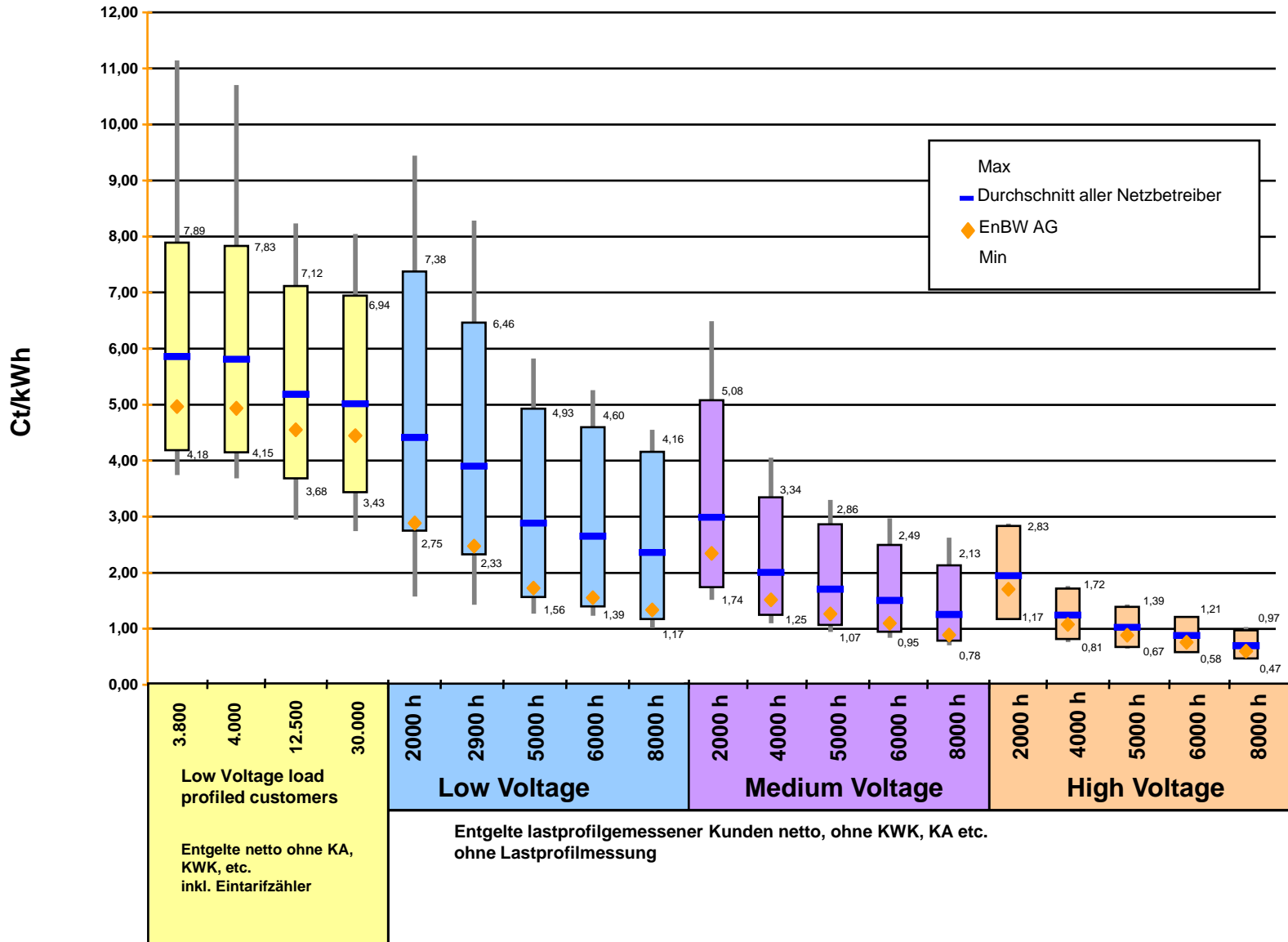


# History of regulation



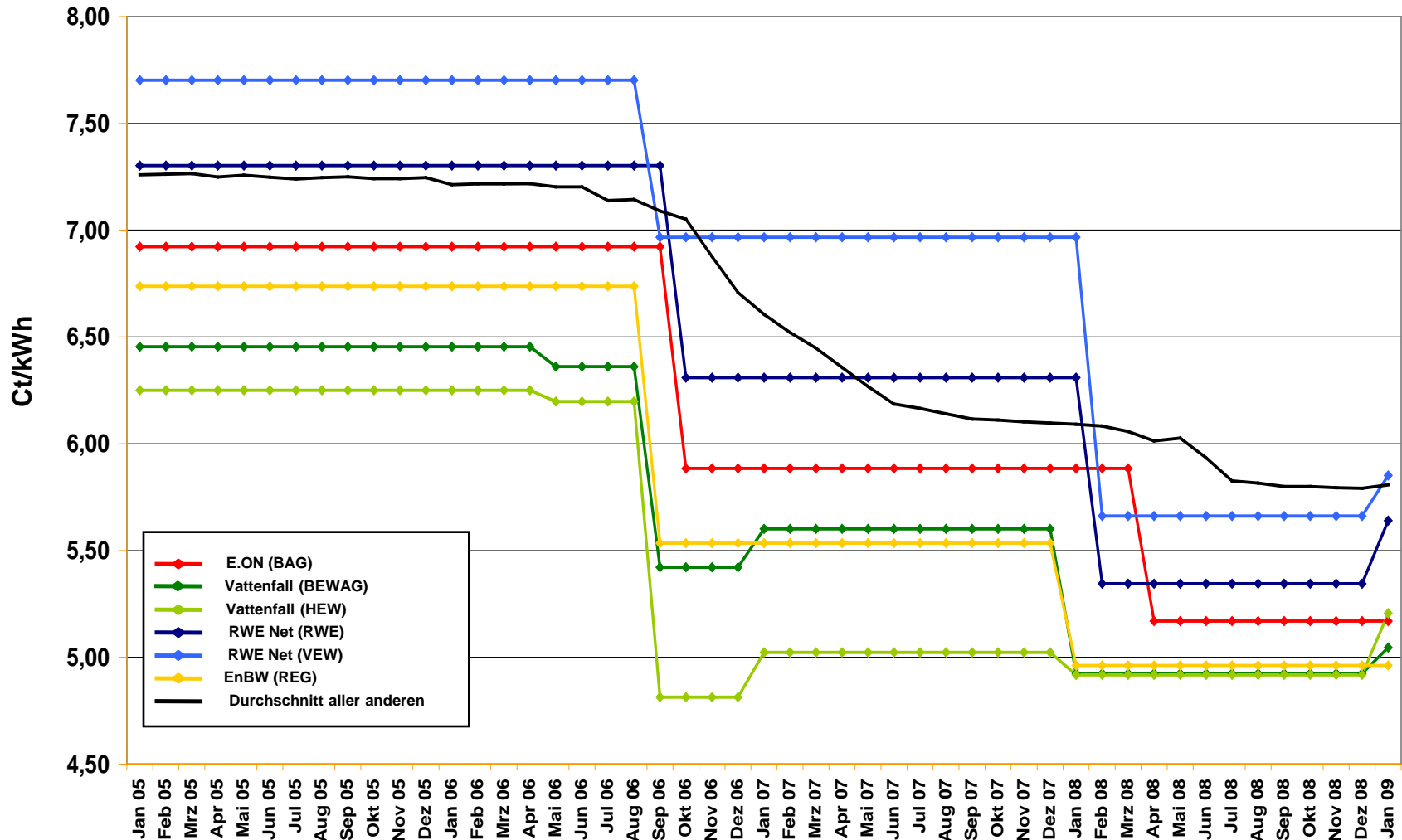
Pre 1998	Monopoly Industry Rate of Return regulation on state level	}	calculations (mostly) on current cost basis
1998 to 2005	Negotiated network access Manifested itself in a negotiation between associations for the broad rules and individual negotiation for actual network access		
2006 to 2008	Regulated network access Standardized rate-of-return regulation on federal and state level (each state could opt for federal or state regulation)	}	current cost basis for pre-2006 assets historic cost basis for post-2006 assets
2009 to ?	Regulated network access Standardized incentive regulation organized on federal level		

# Network charges in Germany January 2009



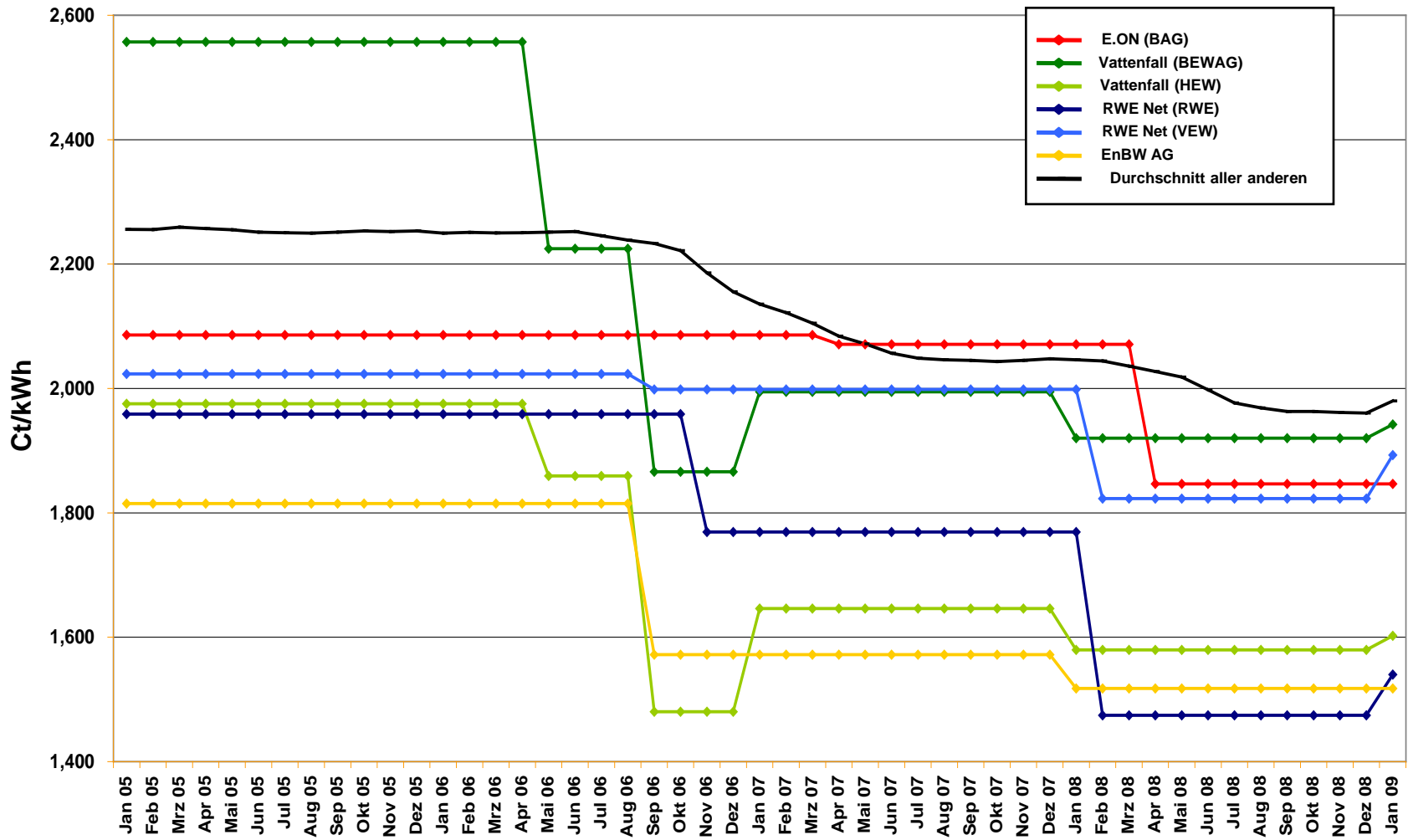
# Network Charges for a (load profiled) domestic customer

- Including metering
- without any taxes (KWKG, KA, ...)



# Network Charges for a medium voltage customer (4000 h/a)

- Including metering
- without any taxes (KWKG, KA, ...)



First regulatory period will run from 2009 to 2013 (electricity) / 2009 to 2012 (gas)

Revenue cap determined by

- › Start year 2008 (i.e. costs of the year 2006)
- › Changes in costs that cannot be influenced by the network operator
  - › Pensions, additional labor costs (excluding wages)
  - › Connecting network charges
  - › Apprentices, company Kindergarten
  - › In dispute: distribution losses and other ancillary services
- › Inflation (two year time lag)
- › General X-Factor of 1,25% (determined in the decree)
- › Individual X-Factor (coming out of a benchmark, next slide)
- › Rate of return (now determined for the years 2009 to 2013)
- › Further details that almost certainly have to be settled by the courts

## Mass production regulation The (black box) benchmark

The regulator has undertaken a benchmark (that we do know)

- › Approx. 240 network operators took part, TSO benchmarked separately

Typical approach: Benchmark informs regulators about performance, efficiency, ...

Germany is the first country (?) to use benchmark results directly

- › Network operators are scored between 60% and 100% efficiency
- › Revenue caps are adjusted that 100% is reached over 10 years (gas: 9)
  - › I.e. 90% efficiency translates into 1% individual X Factor
- › Straight forward application justifies “best of five” (60%, 2xDEA, 2xSFA)

Network operators were informed about their benchmark results

- › Average efficiency at 92%
- › Regulator thinks benchmark results are too high (...“winners curse” ..)

*„However, the Regulator is in no way at its wits' end and has numerous new, creative and innovative ideas.“*

*„Dennoch ist die Bundesnetzagentur mit ihrem Latein keineswegs am Ende und hat zahlreiche neue, kreative und innovative Ideen.“*

Speaker's notes of Mr Kurth for the press conference 7th July 2008

 **Regulatory credibility? Increasing beta's!**

General principle of regulation (?!): The regulator should seek that in any given year revenues and efficient costs of the regulated company are in line

German Regulator follows a strict two-year-lag regarding all costs

- › Overruled by the Highest Court in 2008
- › Regulator will change its practice with economic effect from 2014ff

Two year lag is “only risk/chance” with normal distributed cost changes

- › TSO situation is different: Systemically / continuously rising costs
- › Caused by new build renewables and (long term) rising wholesale prices

Past year-by-year costs increases are in the area of allowed return on capital

- › TSO in danger of making losses
- › Short-fall can never be recaptured

## The “Deutsche Netz AG”



EU forced EON to divest 4800 MW and its TSO in an antitrust case

EON started to lobby for a “Deutsche Netz AG”

- › Motives for outsiders unclear
- › RWE, VE, EnBW would have to divest their TSOs to form Netz AG with EON

Vattenfall announced to sell its TSO

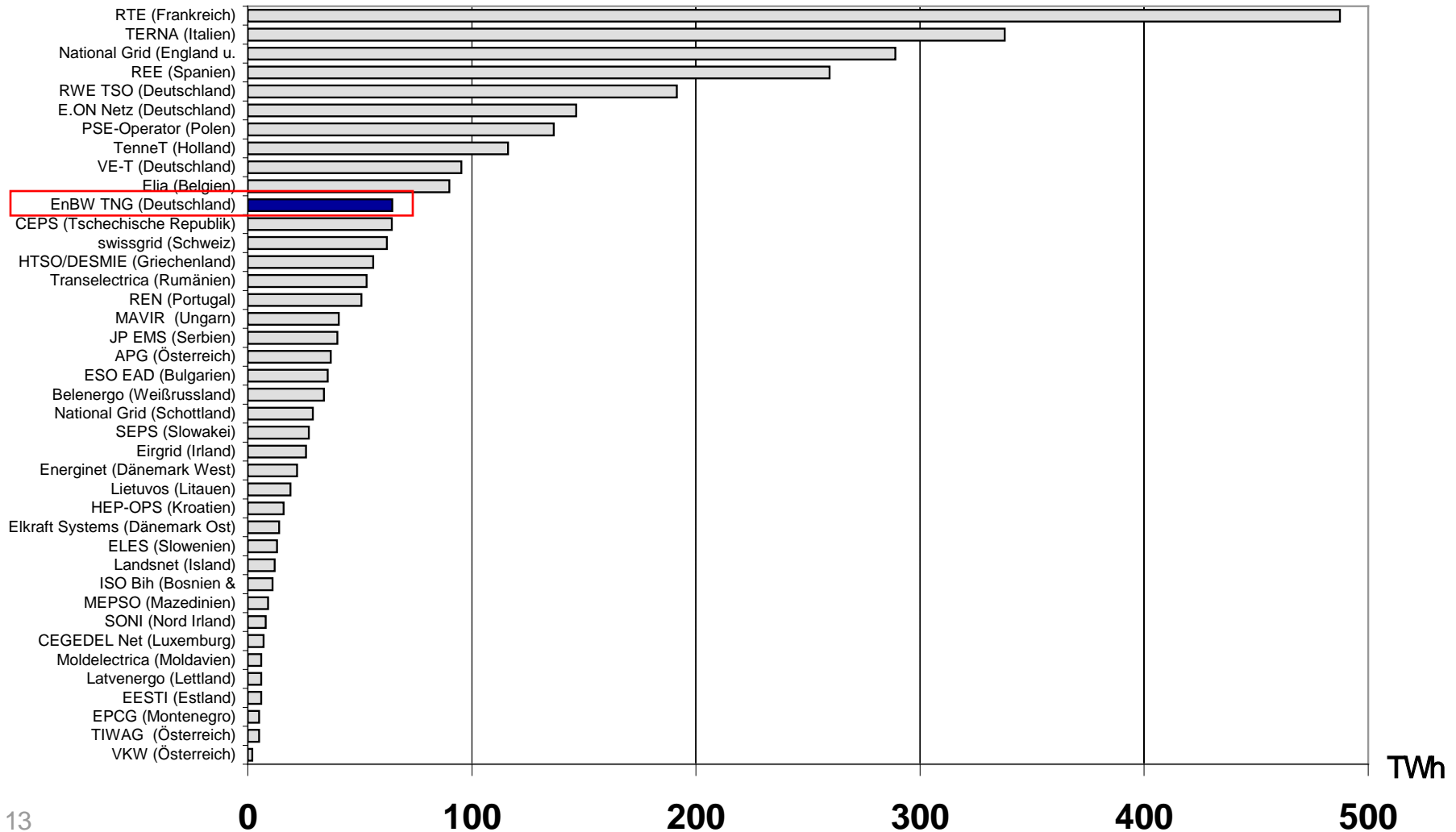
RWE argues for one balancing zone under the leadership of RWE

EnBW argues for European approach and is not willing to join EON, VE or RWE

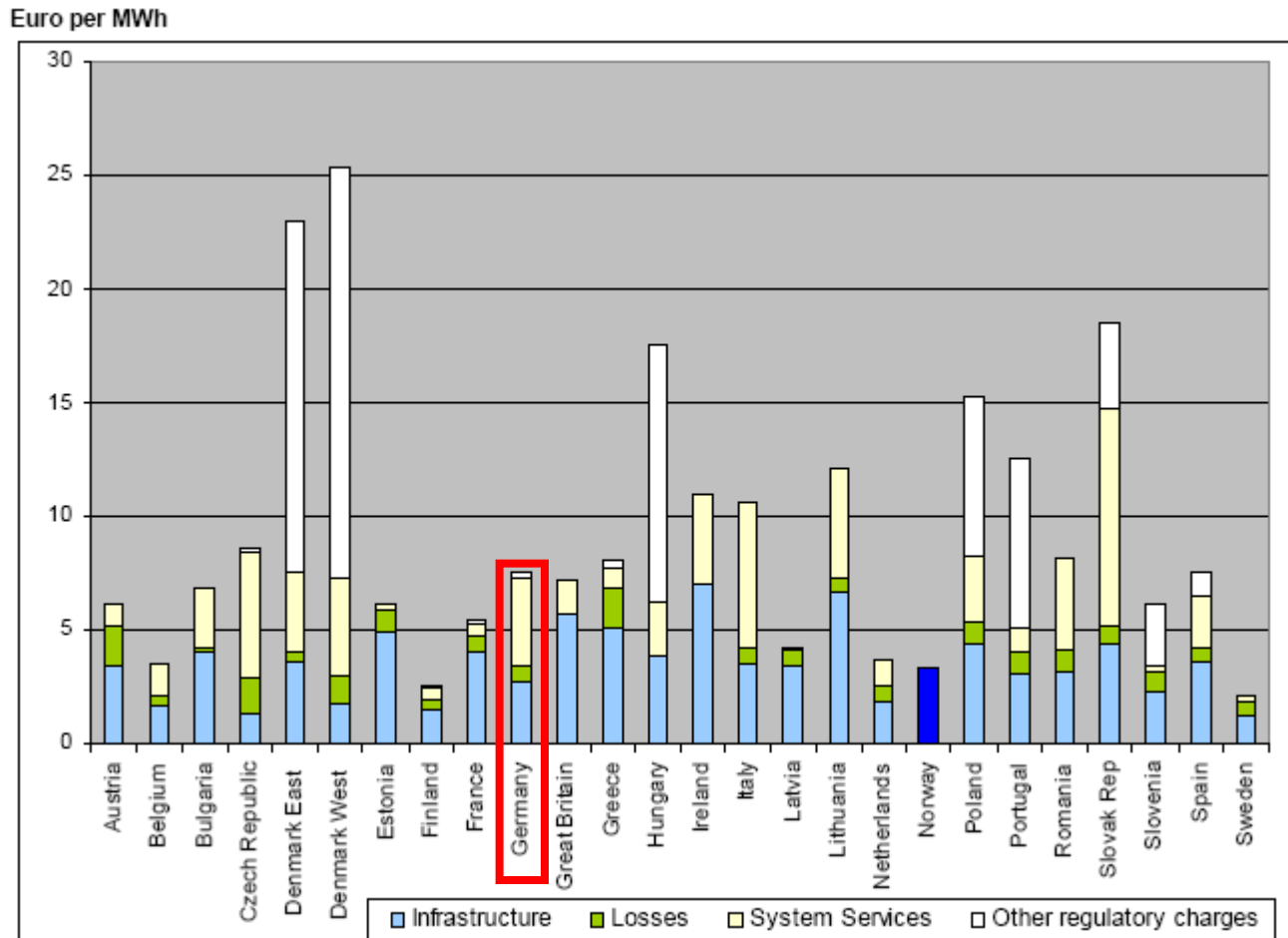
- › EnBW started a cooperation with Swissgrid

Political pressure is building to form a Netz AG

# TSOs in Europe

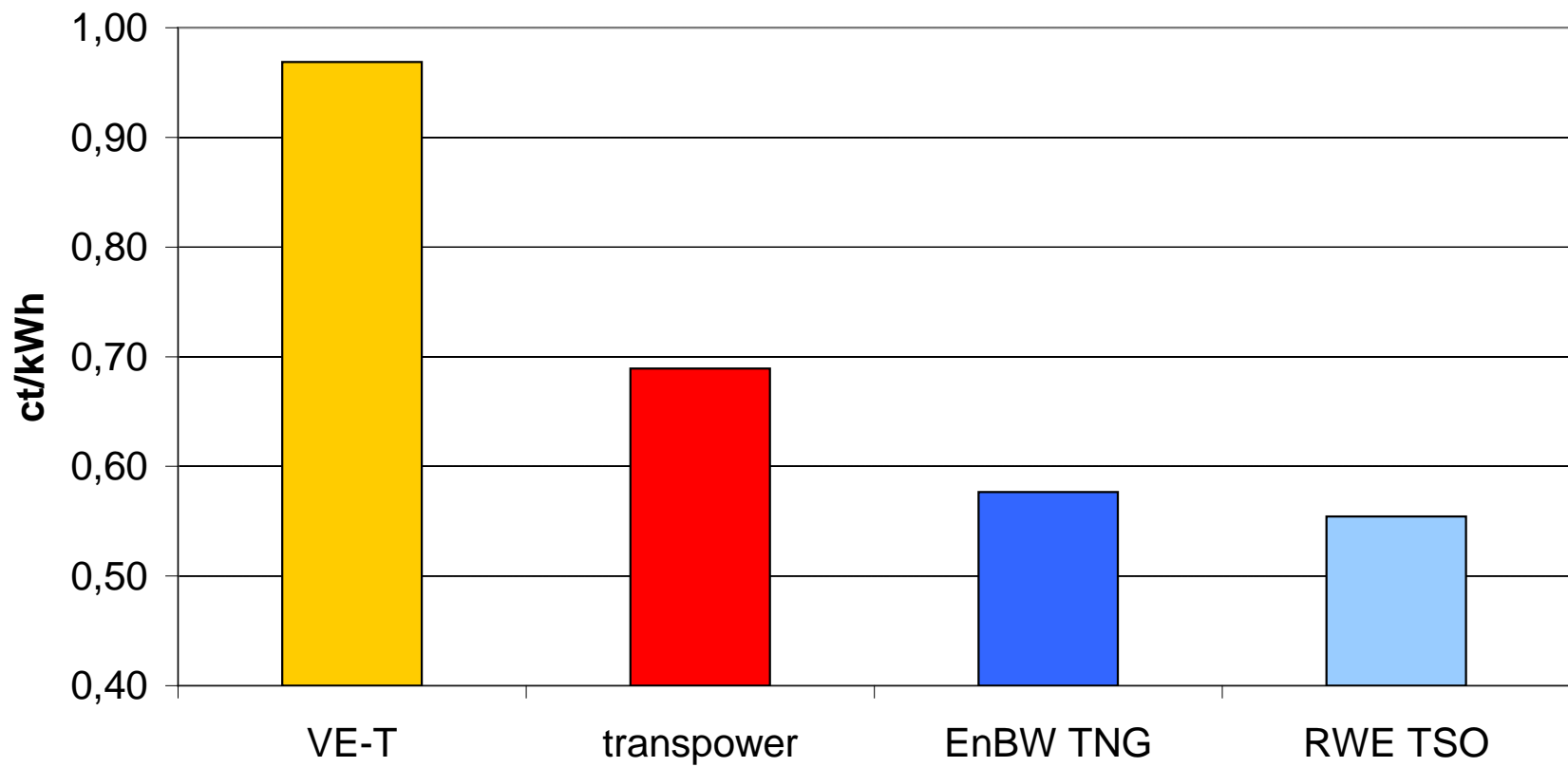


# TSO network charges in Europa ETSO comparison 2007



# TSO Network charges in Germany in 2009

Full year averages - 6.000 h/a utilisation hours



EU pushes for stronger unbundling of TSO

- › EU Commission argued for ownership unbundling
- › Compromise of EU Council and EU Commission: Strong legal unbundling

EU Commission emphasizes three benefits from OU

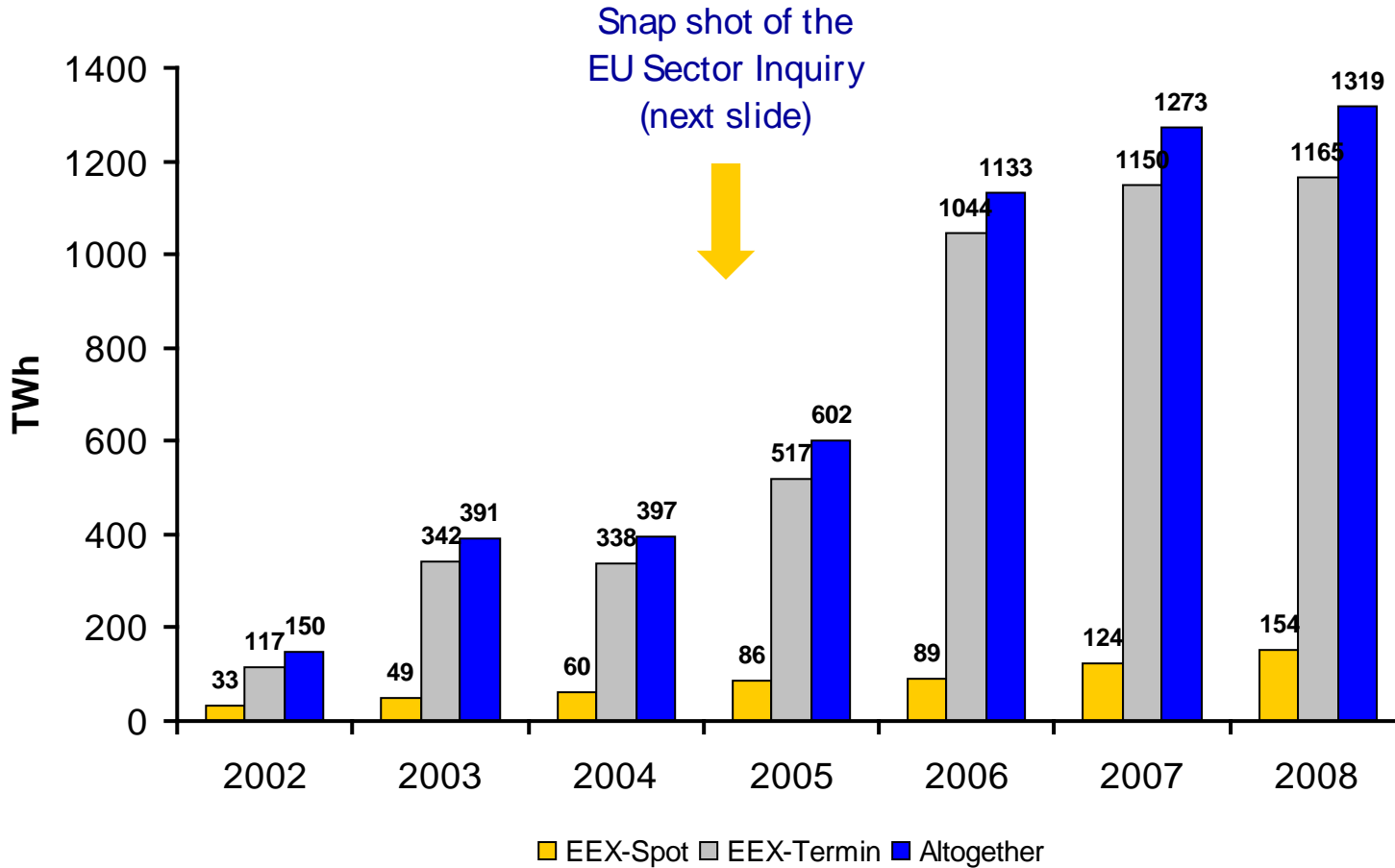
- › Less regulation
- › More competition
- › More investments

Regulation: A monopoly always needs to be regulated

Competition: Becoming more and more a question of believe

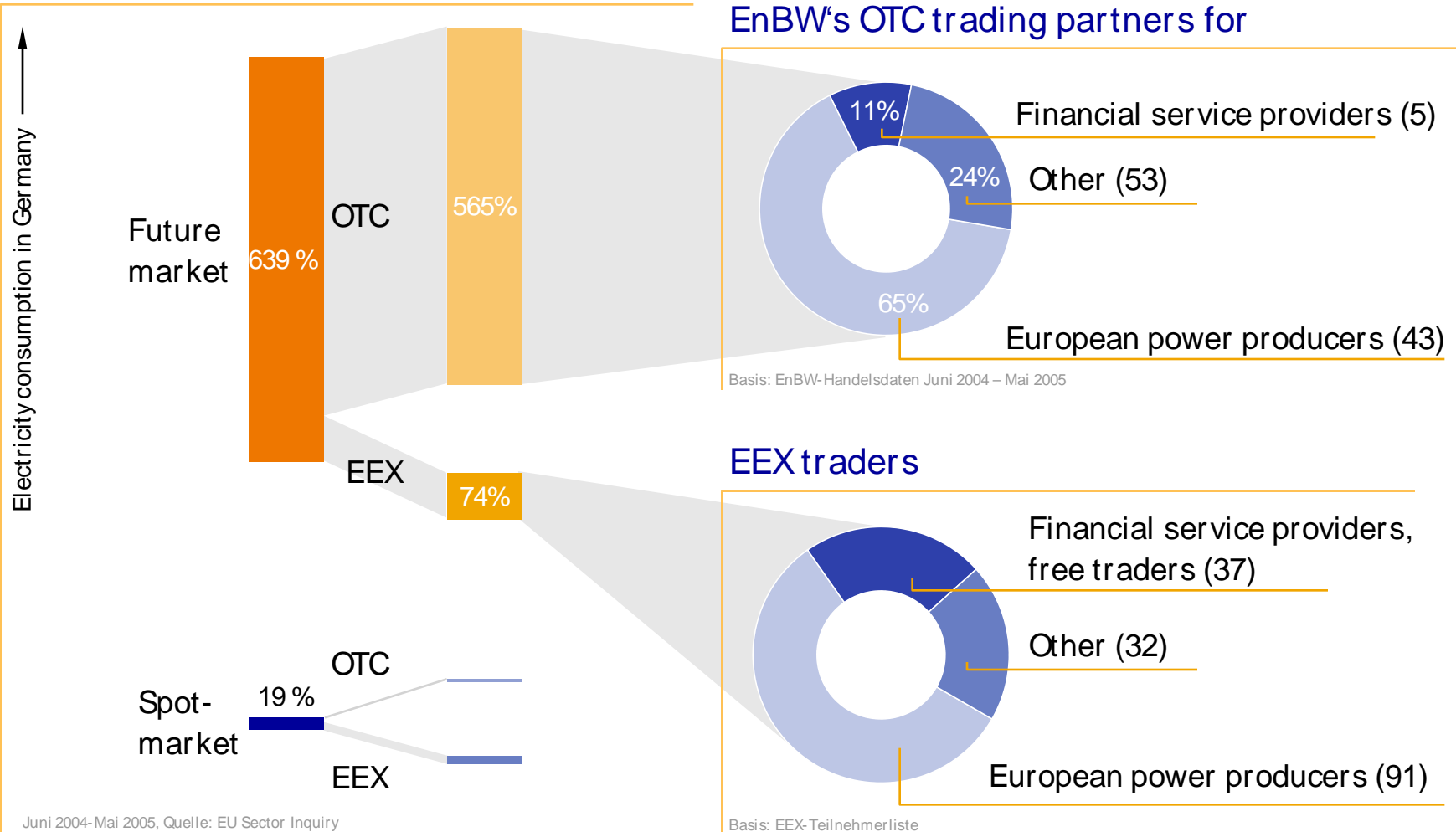
- › Electricity wholesale prices just reached total generation costs in 2008 ...
  - › ...and broke down since then
- › Significant number of independent traders in the market

# Central trading place EEX



# Electricity Trading in Germany 2004/05

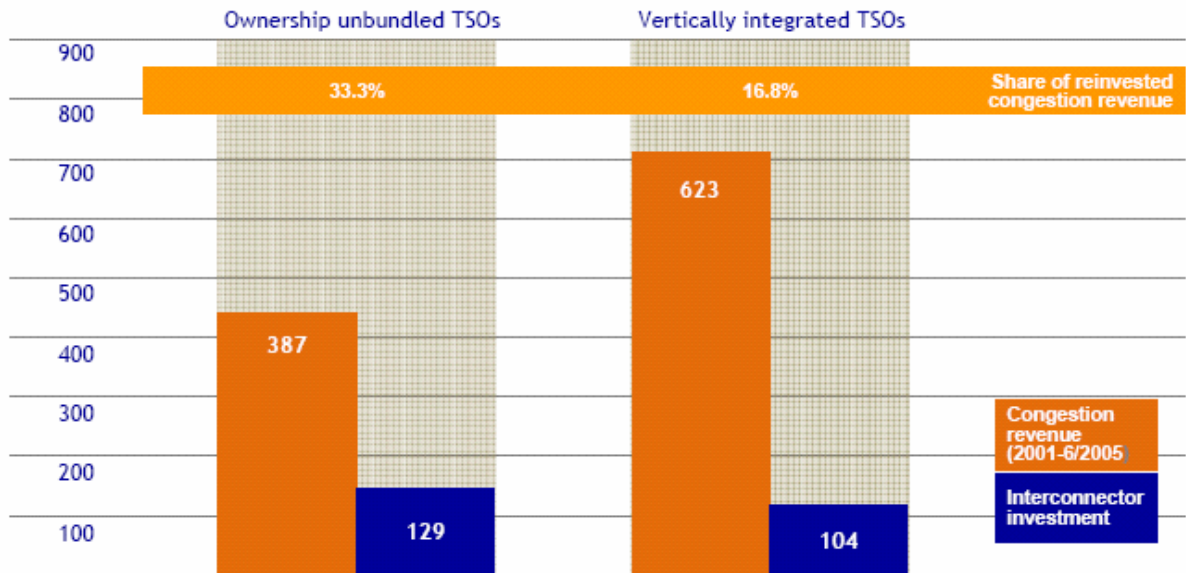
## Trading Volumes in Germany (2004/05)



# Common accusation: TSOs do not invest the congestion revenues



## Share of congestion revenue reinvested in interconnection



Source: Energy sector inquiry



DG TREN

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Source: „The Commission’s impact assessment of the 3rd package proposals”, Christof Schoser, DG TREN Unit C2 Internal Market for Electricity & Gas. Presentation given to the Council Energy Working Group, Brüssel, 18.10.2007,

German TSOs are not free in usage of congestion revenues

- › Usage is part of the network charge approval of the Bundesnetzagentur
- › In the first approval congestion rents were used to lower network charges
  - › I.e. the network charges of the years 2006 and 2007
- › In the second approval congestions rents are partly used for investments
  - › Vattenfall and EON will invest parts
  - › RWE and EnBW use congestion rents to lower network charges

Investing congestions rents is a signal for a bad regulatory environment

- › Why do we need subsidies for network enhancements?
- › Investing congestions revenues creates value by avoiding “standard investments”

Any company including OU-TSOs will seek to make profit

- › Hoping for a “benevolent TSO” is dangerous
- › TSO-OU means more difficulties for embedded and renewable generation
- › Regulation is still necessary

The “European copper plate” is the wrong target

- › Transport demand does have reasons
- › The European copper plate is inefficient and will probably be sunk cost

More investment is needed ...

- › ...main issue in Germany is the current regulatory framework

...and a European congestion management system

- › Regional forums are not in line
- › Breaking up the German market will be a political issue
- › Companies moving in the right direction (PLEF, EnBW-Swissgrid, ...)