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**Federal Department of the Environment, Transport, Energy and Communications DETEC**

# Implementation of sandbox projects under Art. 23*a* ESA

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# 1 Introduction

The regulatory sandbox is a new instrument that makes it possible to test the added value of innovative technologies and business models. The aim is to authorise the implementation of such sandbox projects, which may deviate partially from the legal framework set by the current Electricity Supply Act (ESA; SR 734.7).

Conducting sandbox projects allows innovative businesses to test new approaches in a heavily regulated sector. At the same time, sandbox projects enable policymakers to understand more fully the regulatory obstacles that exist when putting promising and pioneering technologies and business models into practice.

# 2 Purpose of this document

From 1 January 2023, Article 23*a* of the Federal Act of 23 March 2007 on the Supply of Electricity (ESA; SR 734.7) permits the Federal Department of the Environment, Transport, Energy and Communications (DETEC) to authorise sandbox projects and thereby the implementation of projects that deviate partially from the currently applicable legal framework. The aim is to support innovation and facilitate the continued development of draft legislation on electricity supply.

This document clarifies how the relevant legal provisions are to be applied. It also sets out how responsibilities within the process are shared between DETEC and the Swiss Federal Office of Energy (SFOE), as the DETEC competence centre for issues relating to power supplies.

# 3 Legal foundations

The constitutional basis for legislation on the supply of electrical energy is found in Article 91 paragraph 1 of the Federal Constitution.

Authorisation to implement projects that deviate partially from the current legal framework is based on Article 23*a* ESA and the facility that it contains for approving the corresponding sandbox projects. The only provisions that apply when authorising sandbox projects are those concerning the basic energy supply (Art. 6 ESA), the functions of distribution network operators (Art. 8 ESA), the use of the electricity grid (Arts. 10–20*a* ESA) and the associated implementing provisions. The framework for each sandbox, as well as the rights and obligations of project participants, will be defined in an ad-hoc ordinance. DETEC approval or rejection will be based on these legal foundations and communicated to applicants as a formal decision that is subject to appeal.

# 4 Implementation

The governance structure for the implementation of sandbox pilot projects is as follows:

DETEC responsibilities:

- Enacting the ad-hoc ordinances
- Approving or rejecting proposals as formal decisions subject to appeal.

SFOE responsibilities:

- Advising applicants and holding preliminary discussions about proposal submissions
- Receiving and handling drafts
- Receiving proposals
- Evaluating proposals
- Drafting the ad-hoc ordinance
- Drawing up decision documents
- Communicating project outcomes
- Drawing the attention of DETEC to a review of project outcomes, and specifically their implications for further changes to legal provisions
- Where necessary, assessing grid tariffs costs that have not been collected and are not covered by the project; where justified, authorising them to be shared between all end consumers.

To fulfil its responsibilities, the SFOE issues the necessary documentation. Specifically, application forms and directives on the submission and evaluation of applications for financial support for energy research, pilot and demonstration projects will be completed to conduct sandbox-related application procedures.

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