

# Evaluating Alberta's Energy Regulator

*By Steven Globerman and Jairo Yunis*

Government regulation plays a very prominent role in developed economies, especially in the area of environmental regulation. The importance of Alberta's oil and gas sector to both the provincial and national economies makes the activities of the Alberta Energy Regulator (AER) particularly relevant to policymakers, Albertans, and other Canadians.

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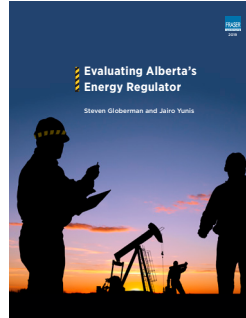
The AER has the overall mandate to ensure the safe, efficient, orderly, and environmentally responsible development of hydrocarbon resources in the province. It fulfills its mandate by reviewing and making decisions on proposed energy developments, making sure that all regulatory requirements are met, and taking enforcement actions when requirements are not met. The AER has recently come in for critical attention by the newly elected provincial government with the announcement of Premier Kenney in July 2019 that the government was going to evaluate the AER in light of major concerns expressed about the regulator's governance and operations.

This essay reviews and evaluates the broad model of regulatory excellence that the AER implemented pursuant to a major review it initiated several years ago. Specifically, we assess the stated goals and features of the AER's model of regulatory excellence against recommendations identified in the extensive literature on regulatory reform. We also evaluate whether the activities of the AER are generally consistent with its model of regulatory excellence.

Our general conclusion is that the model of regulatory excellence adopted by the AER is broadly consistent with the recommendations put forward in the normative literature on regulatory reform. However, the implementation of the model has been criticized, particularly by oil and gas companies, for imposing uncertainty and delays with regard to approving development projects. This criticism receives support from surveys reporting that regulatory uncertainty is a greater barrier to investment in Alberta's oil and gas sector than it is in other major oil and gas producing regions in North America. Surveys of oil and gas producers also show that applications for the licensing of wells takes considerably longer in Alberta than it does in British Columbia, Saskatchewan, and jurisdictions in the US, at least for non-routine well licensing applications. Given new consultative procedures implemented by the AER, non-routine applications are likely to increase in relative, if not absolute, importance in the future.

Reducing uncertainty and lengthy approval timelines, along with the associated compliance costs and other adverse economic effects, might be addressed by the regulator in

several ways that should not compromise its obligation to manage social and environmental risks associated with oil and gas production and distribution in the province. One possible initiative is to incorporate the objectives to reduce uncertainty and shorten approval timelines explicitly into its model of regulatory reform. A second is to reduce the cumulative effects of existing regulations by implementing a program of pruning regulatory red tape under the auspices of a government department or agency charged with that mandate. The latter initiative should include eliminating many, if not most, regulations that are enforced by other regulatory jurisdictions, especially those within the province.



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A third recommendation is that the AER should seek to ensure that the criteria it uses to evaluate proposals for new energy developments are explicit and clear and that contemplated changes to the criteria and decision process it uses are made known in advance to stakeholders, including industry members. As well, the regulator should be expected to evaluate how its criteria and decision-making process for evaluating proposed projects has affected oil and gas development activities in the province and issue reports detailing its evaluation on a regular basis.