

April 7, 2021

## AER Adds Unpaid Municipal Taxes as Risk Factor in Approving Energy Licences

*The change to Directive 067 allows the AER to consider an applicant's municipal tax payment history when reviewing an application for a licence or approval for energy development*

The Alberta Energy Regulator (AER) has released an updated version of [Directive 067: Eligibility Requirements for Acquiring and Holding Energy Licences and Approvals](#). The AER has issued a [bulletin](#) summarizing the changes.

The most significant change to Directive 067 for RMA members is found in section 4.5 of the directive. The revised version adds the following new factor that the AER can now consider when determining whether an applicant poses an “unreasonable risk” if they are granted an energy development licence:

- ◆ Outstanding debts owed for municipal taxes, surface lease payments, or public land disposition fees or rental payments by the applicant, licensee, or approval holder, or by current or former AER licensees or approval holders that are directly or indirectly associated or affiliated with the applicant, licensee, or approval holder, or its directors, officers, or shareholders.

Including unpaid municipal taxes to the list of factors that the AER may consider when reviewing energy licence applications is a positive development for RMA and its members in relation to the [ongoing unpaid oil and gas property tax issue](#). Supported by [member resolutions such as 6-19F](#), RMA has regularly advocated to Alberta Energy and the AER for the inclusion of unpaid taxes in the AER licence approval process. This is important not only because it increases the accountability on oil and gas companies to pay municipal taxes or risk the loss of their ability to operate, but also because non-payment of taxes is a valid indicator of a company's potential financial or operational struggles that may lead to well abandonment or an inability to meet reclamation requirements.

Although the revisions to Directive 067 are promising, RMA has several outstanding questions on the licence approval process that will be clarified with the AER. These include:

- ◆ How and to what extent will unpaid taxes be considered in the licence approval process?
- ◆ How important will unpaid taxes be as a risk factor compared to other risk factors?
- ◆ How will municipalities and the AER effectively communicate to ensure that unpaid tax information is consistent, accurate, and up to date?
- ◆ How will the inclusion of unpaid taxes as a risk factor address situations in which individuals jump from company to company and repeatedly ignore municipal tax payment requirements?

In addition to clarifying these details with the AER, RMA looks forward to continuing to work with Alberta Municipal Affairs to address the legislative gaps that currently exist in the *Municipal Government Act* that prevent municipalities from applying the same tax recovery powers to many oil and gas assets that are available for other property types.

### Wyatt Skovron

Senior Policy Advisor

780.955.4096

[wyatt@RMAAlberta.com](mailto:wyatt@RMAAlberta.com)

**Tasha Blumenthal**

*Director of External Relations & Advocacy*

780.955.4094

[tasha@RMAlberta.com](mailto:tasha@RMAlberta.com)