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Bill 42: Alberta Plans Significant Changes to Oil and Gas Closure Obligations and Data Centre Development

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On November 18, 2026, Alberta's Minister of Technology and Innovation introduced ***Bill 42, the Energy, Environment and Utilities Statutes Amendment Act, 2026*** (the **Bill**). The Bill, among other things, proposes significant changes to the regulation of oil and gas abandonment and reclamation obligations and data centres by amending the following statutes:[1]

(i) *Mines and Minerals Act*
(ii) *Alberta Utilities Commission Act*
(iii) *Electric Utilities Act*
(iv) *Hydro and Electric Energy Act*

Additionally, consistent with the Canada-Alberta Memorandum of Understanding's objective of increasing Alberta's oil and gas production, the Bill also proposes to repeal the *Oil Sands Emissions Limit Act*, removing the statutory emissions limit on Alberta's oil sands sector.

Resource Asset Closure Assurance and Stewardship Fund

The Bill proposes to amend the *Mines and Minerals Act* to establish the Resource Asset Closure Assurance and Stewardship Fund (the **Fund**). The stated purpose of these amendments is to overhaul the closure obligations of resource assets (e.g. wells or facilities) for energy resource activities administered by the Alberta Energy Regulator. Specifically, the Minister of Energy and Minerals (**Minister**) will estimate closure costs for each resource asset. For wells, the regime is expected to apply to wells drilled after April 1, 2027 and will be based on estimated closure costs with a 20-year horizon.

In addition to any prescribed fees for services administered by the Minister, a person responsible for a resource asset must deposit a prescribed amount into the Fund of the following:

(i) a closure-assurance levy;
(ii) a top-up levy; and
(iii) any prescribed administrative penalties.

[1] The Bill also proposes additional and consequential amendments to other legislation that are beyond the scope of this article.

The introduction of the Fund has the potential to increase costs and impose greater working capital constraints on small producers. Specifically, small producers could be disproportionately affected by tying up working capital in the Fund that might otherwise be available to finance new development or undertake other business activities. While more details on classes of resource assets and how the closure costs attributable to specific resource assets will be calculated are required to fully assess the impact of the Fund on producers, the potential for additional costs and capital constraints should be considered by producers when considering the economics of a new drilling program.

The introduction of the Fund also has the potential to impact producers' access to capital. Although the Fund will accumulate interest, a producer will not be able to use the principal or interest for other corporate purposes, as the Bill proposes that: (i) the funds attach to individual assets, and are not company-owned assets; (ii) the money is to be administered by the government; and (iii) the funds are not available for the benefit of a producers creditors. This could affect corporate liquidity, debt financing arrangements (as capital in the Fund would not be considered capital of a party), working capital calculations (as capital in the Fund would be attributable to future closure costs), and lender security packages (as capital in the Fund would not be considered capital of a party).

Finally, the introduction of the Fund has the potential to add new due diligence requirements for potential purchasers. Purchasers of resource assets will need to: (a) verify, on a well by well basis, the accumulated closure fund balances, outstanding contribution obligations, applicable closure cost assumptions and historical fund contributions, and (b) assess whether there is the potential for top-up levy adjustments, or risk greater exposure for resource assets with outstanding contribution obligations. There is also added complexity to valuing the acquired assets given that the Fund contributions would remain with the assets even after a sale, resulting in parties needing to take into account, on a well by well basis, both the future closure costs and amounts contributed into the Fund.

Notwithstanding the above, the establishment of the Fund could also increase producer confidence in acquiring producing wells drilled after April 2027, as the funds set aside for closure obligations would remain with the well when ownership changes. As Terry Schmidtke, Chair of the Alberta Small Producers Group, noted:

> "*By ensuring the cleanup funding remains with each well when ownership changes, smaller producers can continue to invest and grow while meeting their long-term cleanup obligations*." (Terry Schmidtke, Chair, Alberta Small Producers Group)

Alberta Utilities Commission as Primary Regulator

The Alberta Utilities Commission (the **Commission**) reviews applications for approval of the construction and operation of proposed power plants, such as those associated with

proposed data centres. Under the Bill, the Commission will become the primary regulator for approving the construction and operation of data centres over 10 megawatts (**MW**).

In determining whether to approve an application, the Commission will need to consider whether the public interest is met by considering the social, economic and environmental effects of the proposed data centre. The Commission would not consider the computing activities of the data centre or the use of that data in its public interest assessment.

This creates both opportunities and challenges. While having the Commission as the central regulator would provide a more coordinated regulatory framework that provides certainty in the approval process, companies considering investing in data centres or dedicated electricity generation could be subject to additional application and public consultation requirements, resulting in potential project delays.

Data Centre Siting Limits

The Bill proposes to restrict the location of data centres to lands identified as "high-quality agricultural lands". If the proposed location is on lands that fall within "designated high-quality agricultural land", the proposed location must be approved by an Order in Council by September 20, 2027.

The Bill will require data centres to comply with minimum setbacks from property boundaries and will impose restrictions on the use of lands and types of structures. While the setback distances for property classes are to be prescribed by regulation, the Province has indicated a minimum setback of 600 metres from residential properties. Any setbacks established are subject to a municipality requesting an exemption or variance of a setback in connection with a data centre project.

Historically, developers have evaluated sites based on factors including: (i) access to affordable and reliable electricity; (ii) proximity to natural gas infrastructure; (iii) availability of transmission infrastructure; (iv) access to fibre-optic networks; (v) land acquisition costs; and (vi) proximity to major population centres and skilled labour. Data centre developers will now need to account for additional land-use considerations. These proposed restrictions have the potential to narrow the number of commercially attractive locations available to data centre developers.

Certain data centre projects will be exempt from these requirements. The requirements for Commission approval and project site restrictions do not apply to a data centre that is at a prescribed stage of construction or operation at the time of those requirements coming into force. While the parameters are to be further established, the Province has indicated this will include projects that have: (i) an existing Commission decision or a Commission review underway; (ii) a signed transmission service agreement; or (iii) a municipal development permit. Any data centre projects currently in development might consider accelerating development of their projects in order to benefit from the proposed exemptions.

Given these proposed requirements and exemptions, data centre developers may be encouraged to locate facilities alongside existing energy infrastructure rather than developing new sites, and to partner with established natural gas and electricity operators rather than build their own stand-alone data centres.

Data Centre System Designation

The Bill proposes that a person may apply to the Commission to designate a data centre and its associated electric system, in whole or in part, as a designated data centre system. In order for the Commission to consider an application for a designated data centre system, the owner of a data centre must include the following:

(i) the written consent of each owner of the data centre system;

(ii) an assessment by the Alberta Electric System Operator (the **AESO**) on the impact on the reliability and adequacy of Alberta's electric grid; and

(iii) evidence that all costs associated with each transmission facility associated with the data centre system are wholly paid by the owners of that data centre system.

Similar to the designation of a power plant and its associated electric system as an "industrial system", designation as a data centre system will exempt the electric energy produced and directly consumed by the data centre system from the *Electric Utilities Act*. This will allow a data centre with large load demands (equal to or greater than 75 MW) to co-locate with a power plant for self-supply and export. Data centres that demand less than 75 MW may be eligible if certain requirements to be established by the AESO are met.

Data Centre System Tariffs

Any tariffs established by the AESO or an owner of an electric utility for providing electric services will not include those costs associated with a transmission facility that forms part of a data centre system. Accordingly, such costs will not be shouldered by the public. An owner of a transmission facility for a data centre system may file a transmission facility tariff with the Commission that demonstrates each of the following:

(i) the manner in which the costs incurred in respect of the owner's transmission facility are to be recovered; and

(ii) that none of those costs incurred are included in the tariff for the AESO's use of that transmission facility.

While the portion of electric energy consumed within the data centre system will be exempt from the *Electric Utilities Act*, the AESO will be entitled to apply to the Commission

for an order requiring the use of those transmission facilities for system access service. On receipt of an application, the Commission will consider, among other things, the needs, capability and reliability of the data centre system are continued to be met. In such circumstances, the Commission may establish the rates that an owner of a designated data centre system may charge to the AESO for use of that infrastructure.

Key Takeaways

Bill 42 introduces new regulatory, siting and financial considerations for oil and gas producers and data centre developers in Alberta. While much of the detail remains to be finalized in the legislation and accompanying regulations, producers and data centre developers should start to consider the potential impacts on project development, financing and transactions.

For more information on how the proposed changes may affect your business, please contact a member of our **Energy** and **Business Law** groups.