



Published by Financier Worldwide Ltd ©2022 Financier Worldwide Ltd. All rights reserved. Permission to use this reprint has been granted by the publisher.

INDEPTH FEATURE Reprint October 2022

ENERGY SECTOR

Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in the energy sector.





Respondents



ALICIA K. QUESNEL Managing Partner Burnet, Duckworth & Palmer, LLP +1 (403) 260 0233 akq@bdplaw.com

Alicia K. Quesnel is managing partner at Burnet, Duckworth & Palmer. Her practice focuses on energy and commercial transactions and competition law and foreign investment. Her practice areas include business law, commercial agreements, corporate governance and disclosure, competition and foreign investment, corporate reorganisations, joint ventures and other business combinations, energy, environmental, social and governance (ESG), private equity, infrastructure and project development, mergers, acquisitions and other strategic transactions.



CAROLYN A. WRIGHT Partner Burnet, Duckworth & Palmer, LLP +1 (403) 260 5721 caw@bdplaw.com

Carolyn A. Wright is a partner at Burnet, Duckworth & Palmer. Her core practice areas include commercial agreements, corporate reorganisations, energy, joint ventures and other business combinations, infrastructure and project development, mergers, acquisitions and other strategic transactions, as well as regulatory, environmental and indigenous law.

Q. Could you outline some of the major trends in the energy sector in Canada over the last 12-18 months? How would you characterise energy security and supply issues, and their effect on energy prices, for example?

A. In the last 12-18 months, the Canadian oil & gas sector has been marked by a significant amount of consolidation and soaring crude oil and natural gas prices. Higher prices have bridged the price gap between buyers and sellers, although a significant portion of the consideration changing hands has been in the form of non-cash consideration, such as shares. The abrupt increase in global demand for oil & gas brought on by the postcoronavirus (COVID-19) pandemic economic recovery, the Russian war on Ukraine and limited Organization of the Petroleum Exporting Countries (OPEC) spare capacity, coupled with years of declining investment in the sector, have caused prices to increase dramatically. Canadian oil & gas companies are seeing record levels of free cash flow. However, unlike previous commodity booms, capital spending to grow by increasing production has not kept pace. Instead, energy

companies have shifted their free cash flow to lowering debt levels and increasing shareholder returns through dividends and share buybacks.

Q. How are energy companies responding to growing pressure to address environmental, social and governance (ESG) issues across their operations?

A. Over the past several years, companies involved in the Canadian oil & gas sector have become active. deliberate and strategic participants in the move to address environmental, social and governance (ESG) issues across their operations. In its report, entitled 'Canada 2022 Energy Policy Review', the Internal Energy Agency (IEA) noted that Canada's oil & gas sector has shown a strong track record in improving its emissions intensity, due in part to its large investments in environmental protection and clean technology. While recognising that more needs to be done, the overall assessment of the 2022 IEA review is that the Canadian oil & gas sector is demonstrating increasing strength with its ESG performance compared to other oil & gas producing countries. Addressing

ESG matters is viewed by the sector as an opportunity to ensure the continued viability and reputation of the sector as a reliable and responsible supplier of energy to the world.

Q. What effect are CO2 emissions reduction targets having on energy companies in Canada?

A. Canada has committed to reducing its greenhouse gas (GHG) emissions by 40-45 percent from 2005 levels by 2030 with a commitment to reach net-zero emissions by 2050. Many Canadian oil & gas companies have already set net-zero emissions targets for 2050, including the Oil Sands Pathways to Net Zero alliance, which is comprised of all of the major oil sands producers that collectively account for almost two-thirds of Canadian oil production. However, the 2030 targets will be difficult to achieve as they will require a significant amount of investment in new capital intensive clean energy projects. Unfortunately, the regulatory permitting process is currently not capable of permitting large scale projects within a time frame that would see companies meet the interim 2030 targets. Energy

companies fear this will require them to scale back on production, leaving them with less cash flow to invest in emissionscutting technologies.

Q. Have there been any recent, notable energy policies or regulations introduced to encourage progress toward green objectives? What is the outlook for traditional forms of energy generation?

A. Canada has made a series of international and domestic climate change commitments. To support those climate and energy targets, both the federal and provincial governments in Canada have undertaken several policy measures. Alberta has had a carbon price in place for heavy industrial emitters since 2007. Alberta's legislation was revamped in 2020 to better align with the government of Canada federal carbon tax pricing legislation which will see the price of carbon escalate to \$170 per tonne of CO2 by 2030. Other measures include a clean fuels standard, a commitment to phase out unabated coal-fired electricity by 2030, methane regulations and energy efficiency programmes, as well as tax incentives and government funding programmes for clean



energy and renewable energy projects, such as carbon capture, utilisation and storage, clean hydrogen, small modular nuclear reactors, and wind and solar projects.

Q. As the world continues its energy transition, what trends and opportunities are you seeing in clean energy? How would you characterise technological innovations, project development and investment activity in this space?

A. The Canadian oil & gas industry is one of the largest, if not the largest, investor in the development of clean technology. In Canada, 75 percent of private funding for clean-technology initiatives is being spent by the oil & gas industry. In addition, the most promising carbon-reduction technologies being advanced today are based on historical and ongoing research and development undertaken by the oil & gas industry, including technologies used to support carbon capture and storage, as well as the production of lower carbon fuels, such as low-emission hydrogen, and the production of value-added noncombustion products derived from hydrocarbons, such as petrochemicals and



Canada's diverse energy sector uniquely positions it to meaningfully contribute to both global energy security as well as energy transformation, especially in the wake of Russia's invasion of Ukraine.

asphalt. Canadian oil & gas companies are active participants and accelerators for the growth of clean technologies. Canada is also engaged in new non-hydrocarbonbased energy source development, such as biomass.

Q. What do you consider to be the main risks and challenges for energy companies as they assess their operational strategies?

A. Regulatory and climate change policy uncertainty remain the main risks and challenges for energy companies as they assess their operational strategies. There is a lack of consultation between policymakers, industry players and capital markets, as well as a lack of coordination, even disagreement, on climate change policies and initiatives between the federal government and the resource rich producing provinces. There is constitutional uncertainty over the federal government's scope of authority to legislate in a manner that impacts provincial jurisdiction over the development of their natural resources. A number of legal challenges have already been made and more are anticipated as new federal initiatives are announced. While

capital investment is starting to increase, regulatory and policy uncertainties continue to be a major impediment to capital investment in projects that can most efficiently and effectively help producers to meet their net-zero emissions ambitions. Other pressures come from supply chain uncertainty, rising costs and access to skilled workers.

Q. Over the months and years ahead, what major developments do you expect to see in the energy sector in Canada? What issues are set to shape market activity?

A. One of the most significant issues that will shape market activity over the months and years ahead is how Canada deals with two seemingly competing objectives – maintaining energy security and mitigating climate change. But do we really need to see these as trade-offs? Ideally, we see a paradigm shift ahead that recognises that maintaining energy security and mitigating climate change are both required to meet our global climate change mitigation objectives. Achieving global energy security will require the world to rely on a mix of energy sources, including



hydrocarbons. Canada's diverse energy sector uniquely positions it to meaningfully contribute to both global energy security as well as energy transformation, especially in the wake of Russia's invasion of Ukraine.

www.bdplaw.com

When you partner with **BD&P**, you get a tailored-to-you team that prioritises your goals and never loses sight of them. This is why BD&P is trusted by some of Canada's biggest companies and most creative start-ups on some of their most significant files.

ALICIA K. QUESNEL Managing Partner +1 (403) 260 0233 akq@bdplaw.com

CAROLYN A. WRIGHT Partner +1 (403) 260 5721 caw@bdplaw.com

