



# Leasing to a Renewable Energy Facility

## Planning & Development



If you are a landowner contemplating leasing your land to a company for a renewable energy project there are some things to consider:

It should be noted that this information is based on the current state in Alberta. Legislation and is subject to change. Acts, regulations, and standards are constantly evolving to meet new industry trends. If you are a landowner considering leasing your land for a renewable energy project, **it is recommended that you engage with a legal professional to ensure your interests and potential for risk are managed to reduce the impact.**

- Leases for renewable energy are a long-term contract which can range in time, but typically will last over several decades. Once a lease has been signed, it will be caveatted to the title and will provide exclusive rights of interest for the company to use the lands for a renewable energy project - no five (5) year review.
- The original representative you negotiate with may not be the company that constructs and operates the facility. Landowners need to ensure that any agreement made with a renewable energy company will require your consent to transfer project ownership. Currently there is no legislation equivalent to the Surface Rights Act that would protect landowners from issues relating to unpaid leases, compensation, and damage, etc. incurred by a renewable energy company.
- There is no liability management program administered by the Alberta Utilities Commission (AUC) to assess the financial condition of an operator as there is for license holders under the Alberta Energy Regulator (AER). There is also nothing similar to the orphan well fund to deal with unfunded liabilities .
- ***Landowners may become liable to undertake end-of-life obligations which may include the costs to remove the equipment and reclaim the site.***
- A landowner has the right to refuse entry for wind and solar projects. As a landowner, you should ensure that the developer maintains adequate insurance. It is prudent to be named as an additional insured party on their policy.
- A developer of renewable energy (or their representative) does not fall under an association that requires following a code of conduct, or professional or ethical standards. There is no government investigation of complaints in this regard. However, if a licensed land agent is used, they are obligated to comply with the Land Agents Licensing Act and Land Agents Licensing Regulation.
- Baseline photos and soil testing should be done prior to any construction to ensure a record is available for future reclamation plans. This will help ensure pre-disturbance assessments are accurate.

## Potential concerns of adjacent landowners with your project:

**Aerial Spraying**—may become problematic on lands adjacent to wind and solar facilities.

**Associated Infrastructure**—projects may require easements on adjacent lands for collector lines.

**Noise**—facilities are bound by *Rule 012: Noise*, which measures cumulative noise in the area. The AUC investigates noise complaints.

**Visual Impacts**—this can create contention with neighbors.

**Weed & Pest Control**—an adjacent landowner will want to be confident that a developer has a management plan in place to control potential pests, weeds and unkempt vegetation.

**Shadow Flicker**—some residences may experience shadow flicker on lands adjacent to a wind turbine. Changes to turbine siting may help reduce or eliminate this issue.

**Ice Shedding**—ice falling from turbine blades can create safety issues. Appropriate setbacks can help minimize this.

**Construction Traffic**—traffic will increase during the construction of the project. Road Use Agreements provide some security that haul routes, dust and impacts during this phase are dealt with by the Developer.

**Limit Future Development**—may have an impact on what can be placed on surrounding lands due to setback requirements and potential cumulative noise limits.

**Crop Damages**—ensuring the developer is responsible for any crop damages if project construction falls outside the approved footprint.

**Aviation Obstruction Lighting** - New technology enables remote activation of lighting to avoid continuous illumination.

**For additional information, please see links below:**

<https://www.alberta.ca/assets/documents/afred-fao-negotiating-renewable-energy-leases.pdf>

[www.auc.ab.ca](http://www.auc.ab.ca)



## Responsibilities for Renewable Energy Regulation falls to the following three provincial departments:

- **Alberta Electric System Operator** — operates the electrical grid
- **Alberta Utilities Commission** — take the lead in approvals and construction and operation of renewables
- **Alberta Environment and Protected Areas**—does the review and assessment of Conservation and Reclamation plans (C&R), compliance and enforcement of C&R, issues reclamation certificates.



For more information:

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