



## Having Your Say at an AER Hearing

This EnerFAQs explains the purposes of Alberta Energy Regulator (AER) public hearings and provides information to assist you to participate effectively.

### » What is an AER hearing?

An AER hearing is a formal and quasi-judicial proceeding about an energy project application. It provides participants the opportunity to know the facts about the application and question the positions of others about the application. This allows the hearing commissioners to make a fully informed decision. A hearing can be oral, written, electronic, or a combination thereof.

Energy projects include everything from gas or oil wells and pipelines to sour gas processing plants and major oil sands and coal projects.

### » When does an application go to hearing?

The AER has discretion to determine when to conduct a hearing on an application. Once the AER has decided to hold a hearing, the hearing commissioners have discretion to determine what specific procedures will apply. Many matters that could result in a contested hearing can be settled through an alternative dispute resolution (ADR) process. ADR can take many forms and is strongly encouraged by the AER as an effective means to resolve concerns and disputes.

For more information on ADR, see EnerFAQs *All About Appropriate Dispute Resolution (ADR)* available on the AER website at [www.aer.ca](http://www.aer.ca) and from the AER Information Product Services Section.



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**» How do I find out about hearings?**

The AER issues a notice of hearing to inform Albertans about details of AER hearings. Notices are available on the AER website [www.aer.ca](http://www.aer.ca) and may also be published in daily or weekly newspapers.

A notice of hearing provides the following information:

- the date, time, and location of the hearing;
- the application number and description of the application;
- a contact for the applicant that filed the application;
- AER information;
- the deadline for filing requests for participation and submissions; and
- relevant requirements under the *Alberta Energy Regulator Rules of Practice*, including notice that documents filed with the AER must be placed on the public record.

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**» What are the Alberta Energy Regulator Rules of Practice?**

The *Alberta Energy Regulator Rules of Practice* contains the rules and procedures governing AER hearings. The *Alberta Energy Regulator Rules of Practice* explains how and what must be done in a variety of situations before, during, and after a hearing. The AER expects all applicants and participants in AER hearings to be familiar with the *Alberta Energy Regulator Rules of Practice*. The Alberta Energy Regulator Rules of Practice are available on the AER website at [www.aer.ca](http://www.aer.ca) and from the AER Information Product Services Section as well as from the Queen's Printer at [www.qp.alberta.ca](http://www.qp.alberta.ca).

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**» What is a hearing panel?**

A hearing panel may either consist of one hearing commissioner or a group of three hearing commissioners selected by the chief hearing commissioner to conduct a hearing. Hearing commissioners are the decision-makers. A decision of the panel is the decision of the AER.

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**» What is a participant?**

A participant is anyone who the AER determines may participate in the hearing. Persons wishing to participate in an AER hearing must file a request to participate in accordance with the *Alberta Energy Regulator Rules of Practice* within the deadlines set out in the notice of hearing. The hearing panel will set the nature and scope of the participation in the hearing.

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» **How do I participate in a hearing?**

If you wish to participate in a hearing, you must submit a request to participate to both the applicant and the AER by the deadline stated in the notice of hearing.

You must provide a copy of your submission to the applicant, as well as a specified number of copies (as stated in the notice of hearing) to the AER. All written submissions become public documents, available to all participants. In this way, everyone is able to review everyone else's submissions.

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» **What if I've already filed a statement of concern?**

Even if you filed a statement of concern, you must still file a request to participate in a hearing. See EnerFAQs *Expressing your Concerns—How to File a Statement of Concern about an Energy Resource Project*.

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» **What should I include in my request to participate?**

The information in your request to participate must apply to the application in question. Start by explaining where you live, work, or own land in relation to the site of the proposed project. Explain your views about the project, giving reasons why and how you may be directly and adversely affected should the project proceed. The request to participate must include the information set out in the *Alberta Energy Regulator Rules of Practice*.

The hearing panel must make decisions on applications based both on individual interests and broader factors that include the benefits of the energy project for all Albertans. If you simply oppose a project without providing solid reasons for doing so, or fail to demonstrate how you may be directly and adversely affected by the proposed project, the AER may decide that you cannot participate in the hearing. Hearing Commissioners have discretion to grant or refuse participation to a person or group.

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» **Once the AER grants my request to participate, what do I need to do next?**

If the hearing panel grants your request to participate in a hearing, it will set the nature and scope of your participation. It may be that you can make an oral presentation, give a written submission that only states your concerns, or provide a written submission that includes your evidence to support your concerns or objections. Copies of your submission will also be given to the applicant and placed on the public record.

Try to suggest reasonable alternatives that could alleviate any potential impacts that may result from the proposed project. Explain what conditions, if any, you would like to see imposed on the operator if the application is approved. Be aware that the AER cannot use or rely on unsubstantiated information. Try to back your

concerns up with relevant facts that relate to the specific project and include supporting written materials.

ADR often takes place before and after a notice of hearing has been issued. Hearing commissioners will conduct the ADR, unless there is ongoing ADR by AER staff.

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» **May I get information from the company?**

Yes. Applicants are required to provide participants with a copy of the application, including any supporting information such as an environmental impact assessment or geological interpretations. However, the applicant is not required to supply everyone with a full copy of the application; rather, it will make a copy available locally for study. The notice of hearing will say where the application materials can be viewed.

Sometimes more information is necessary to fully understand the applicant's position. To clarify, simplify, and create a better understanding of the issues, you may ask for more information through an information request (IR). The *Alberta Energy Regulator Rules of Practice* outlines how to make an IR.

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» **Instead of participating as an individual, should I form a group to participate?**

Researching and preparing a submission takes a lot of time and effort and you may decide to form or join a group with other people in your area. A group submission may be very helpful, as it indicates broader support for the views expressed. Whether you prepare your submission alone or as a group, it is best to do very thorough research and provide solid evidence to support your points of view.

The *Alberta Energy Regulator Rules of Practice* contains specific rules about group eligibility and participation.

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» **Do I need to hire a lawyer?**

Although there is no requirement that a lawyer represent you during the hearing, having a lawyer represent your interests could be a good idea. AER hearings are, in some ways, like a civil case before a judge. Lawyers are trained to present your case, cross-examine the other side's witnesses, and make arguments about what the AER's decision should be. A lawyer can also assist in arranging experts, if they are needed to make your case.

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» **Do I have to pay for my participation in the hearing?**

Costs may be incurred by participants at a hearing when researching and preparing submissions, hiring a lawyer, and attending the hearing. The AER has the discretion to award costs to participants at a hearing. To make a claim for costs, a participant must file a cost claim with the AER. Following a hearing, the AER considers any cost claims that have been submitted. The AER may consider a number of factors when deciding whether to award costs, and if so, how much to award. If costs are awarded to a participant, the AER will direct the applicant (in the case of a hearing on an application) or approval holder (in the case of a hearing on a regulatory appeal) to pay the participant the amount awarded.

Consult *Directive 031: REDA Energy Cost Claims* before incurring any costs. It is available on the AER website at [www.aer.ca](http://www.aer.ca) and from the AER Information Product Services Section.

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» **How long does an AER hearing typically last?**

Every case is unique. Oral or electronic hearings may last anywhere from one day to several weeks depending on the nature of the application, the number of participants, and the complexity of the issues. Written hearings will involve the filing of written submissions within set deadlines with no time scheduled for oral statements.

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» **May I attend an AER hearing just to listen?**

Yes. AER hearings are open to the public to attend, but not everyone can participate.

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» **What happens at an AER hearing?**

The AER has discretion as to the type of hearing and the process that will be followed. Hearings may be written, oral, or electronic or a combination thereof. Written hearings can involve the filing of written submissions on the issues set by the hearing commissioner who then makes a decision based on the written submissions.

An oral or electronic hearing may follow a simple process, such as oral arguments on a specific issue supported by written submission, or a more expanded process such as filing written submissions, expert evidence, leading direct evidence and being subject to cross examination. The AER has discretion as to the process for a hearing.

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- » **How long does it take to make a decision on an application?**
- If an application proceeds to a hearing, the hearing panel will release its decision within 90 days of the close of a hearing. In exceptional cases, the timeframe for the decision report may be extended. The decision report outlines the position of all hearing participants and gives the panel's decision and reasons for the decision. The decision report is then distributed to all parties and is made available through the AER's Information Product Services Section and on the AER website [www.aer.ca](http://www.aer.ca).
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- » **Can I really affect the final decision?**
- Yes. In making its decisions, hearing commissioners consider all valid concerns put forward by participants. If a project is approved, conditions may be attached to the decision to take into account the specific concerns of local residents.
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- » **May an AER decision be appealed?**
- Yes. An appeal of the AER's decision may be made to the Alberta Court of Appeal on questions of jurisdiction or law, meaning that the AER did not have the authority to make the decision or that it made a mistake about the law. Permission to appeal the decision must be obtained from the Court of Appeal by making an application for leave to appeal within one month after the hearing panel's decision is issued. In certain circumstances, the court may grant an extension.
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- » **Who enforces whatever a company agrees to during a hearing?**
- The AER enforces the conditions in the decision report through inspections, administrative penalties, compliance, and enforcement. Generally, responsible applicants do what they are required to do, and intensive follow-up is not required. However, if you think this is not the case, contact the nearest AER field centre and explain the problem; a list of phone numbers can be found on the AER website [www.aer.ca](http://www.aer.ca). If your concern relates to coal mines, contact the AER head office in Calgary.

## » Additional Information

For additional information on the AER and its processes or if you wish to speak with your local field centre or have general questions about energy projects in the province of Alberta, contact the AER Customer Contact Centre: Monday to Friday (8:00 a.m. to 4:30 p.m.) at 1-855-297-8311 (toll free).

This document is part of the EnerFAQs series, which explains the AER's regulations and processes as they relate to specific energy issues. Please visit [www.aer.ca](http://www.aer.ca) to read more of the EnerFAQs series.

Every year the AER collects, compiles, and publishes a large amount of technical data and information about Alberta's energy development and resources for use by both industry and the general public. This includes raw data, statistics, hearing materials, and information on regulations, policies, and decisions.

Publications may be either viewed at the AER library or obtained from the Information Product Services Section (IPSS). Both are housed on the tenth floor of the AER head office in Calgary. Publications may also be downloaded free of charge from the AER website ([www.aer.ca](http://www.aer.ca)).

To obtain a print or CD copy of a specific publication, contact IPSS by phone (403-297-8190), fax (403-297-7040), or e-mail ([infoservices@er.ca](mailto:infoservices@er.ca)).

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