



COMMUNITY BENEFITS AGREEMENTS IN ALBERTA

Discussion Document

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What is Community Generation?

Community generation uses renewable or alternative energy sources like wind, solar, biomass, hydro, combined heat and power or other technologies to supply electricity to the grid. Community generation projects are sized to fit within the local distribution system and the sale of electricity to the grid results in financial compensation for organizations and/or communities, depending on the ownership structure(s) in place.

On November 22, 2018 the Government of Alberta (GoA) released the *Small-Scale Generation Regulation (SSGR)*, to further enable community generation projects in the province. Under this regulation, neighbors, community groups, rural and urban co-ops, municipalities, and others are able to partner on local, small-scale renewable energy projects that generate community benefits. This relationship is often governed by a Community Benefits Agreement, which is described as a legally binding contract between a small-scale power producer and a community group that confers social, environmental or economic benefits, or “community benefits”, to the community group.¹

This discussion document is meant to provide the reader with a brief introduction to Community Benefits Agreements (CBAs) by largely referencing a report entitled, “*The Prosperous Province: Strategies for Building Community Wealth, Community Benefits and Social Procurement Policies*”, which was published by the Mowat Centre in 2016 and commissioned by the Atkinson Foundation. The report is intended to support informed discussion and guide decision-making in the emerging field of community wealth-building.

What are Community Benefits Agreements?

CBAs are formal agreements, usually between a project developer or sponsor and a community-based coalition, that reflect and represent members in the community who are affected by the development. A CBA outlines the benefits the community will enjoy from the project. These benefits may include a combination of jobs, business opportunities, capacity building through training or apprenticeships, improved environment, local program funding amongst other benefits.

These agreements are legally binding contracts and usually contain the following core elements:

- The names and description of all parties involved;
- A description of the project;
- A list which details the agreed-to commitments of the developer or sponsor.

Developers with a clear understanding of corporate sustainability recognize the benefits of working with community-based coalitions and governments. This partnership can lead to a shorter approvals process and a project tailored to fit the community and receive broader public support. In the end this leads to a stronger, more appealing brand. Coalition groups within communities often voluntarily pledge their support to a project in exchange for the developer’s commitment to deliver specific and clearly articulated community benefits. In all ways this facilitates the management of expectations from participants in the Community.

¹ *Small Scale Generation Regulation*, Electric Utilities Act, Alberta Queen’s Printer, http://www.gp.alberta.ca/documents/Regs/2018_194.pdf

² Andrew Galley, “*The Prosperous Province: Strategies for Building Community Wealth*,” *Community Benefits Agreements*, (Anchor Institutions by the Mowat Centre for the Atkinson Foundation: 2015), https://munkschool.utoronto.ca/mowatcentre/wp-content/uploads/publications/110_community_benefits_agreements.pdf

CBA: Three Key Players Working Together²

There are three key players that work within the project development pathway to develop CBAs:

1. *Community-based coalition*: These can consist of the local municipal government, residents, business owners, associations, special organized labour and other interest groups. Coalitions can develop amongst multiple groups within a community that can lead to a more focused advocacy on behalf of social service groups. These coalitions can also develop consensus among their members on a single, coherent platform to guide negotiations.²
2. *Developer(s)*: Traditionally, both private and cooperative developers have a strong orientation towards cost-control and shareholder value. Modern developers are focused on maximizing stakeholder value, which consists of three core elements: social value, environmental value and economic value.
3. *Government*: Municipalities usually play a central role in the approval of major infrastructure and energy projects. Governments are often the source of financial subsidies, such as tax deferrals, which are often used to both attract and facilitate expanded private development. This development can be facilitated under a CBA that engenders the best of the Public Private Partnership (PPP) model that is favored by most provincial and federal governments.

Four Key Phases in the Development of a CBA²

As CBAs are often attached to large development projects, they are often time sensitive. The Mowat Centre has identified four key phases in the development of a CBA:



1. *Negotiation and coalition formation*: It is recommended that CBAs be negotiated and signed before the developer signs a development agreement with (or receives final permission to build from) the municipality.
2. *Development of platform for negotiation*: This step requires narrowing initial demands to a more limited list around which consensus can be built. It is very important that coalitions produce a platform that is both *financeable and produces community benefits*.
3. *Implementation planning*: If negotiations go well and the parties can agree on a list of benefits, coalitions turn towards planning implementation.
4. *Focus on outcomes*: A successful CBA keeps outcomes tangible, such as the number of people hired or community fund contribution. Oversight can take one of several forms for appropriate monitoring and possible remedies for non-compliance. In some situations, community groups or coalitions that receive funding under a CBA may appoint staff to monitor compliance. In other situations, a joint oversight committee is formed between the developer and interested parties. Finally, there are instances where the Municipality agrees to provide oversight of the CBA. In all cases the developer takes on specific responsibility to report on progress.

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² Andrew Galley, "The Prosperous Province: Strategies for Building Community Wealth," *Community Benefits Agreements*, (Anchor Institutions by the Mowat Centre for the Atkinson Foundation: 2015), https://munkschool.utoronto.ca/mowatcentre/wp-content/uploads/publications/110_community_benefits_agreements.pdf

The Five Key Factors of Successful CBAs²

Based on the experiences and learnings from early CBAs, five factors have been identified as having a major impact on their success.

1. *Building credible and authentic coalitions.* Breadth and diversity within a community coalition is an essential factor in the success of a CBA.
2. *Achieving consensus on a negotiating platform.* Modestly successful CBAs lay the groundwork for future coalitions and bigger successes, but communities may find it challenging to remain committed to the CBA concept. If governments take the view that CBAs can serve as policy pilots, from which they can redeploy the most consistently successful provisions, the time commitment needed by all parties to reach agreement may be significantly shortened.
3. *Balancing competing demands on developers.* Communities are not the only stakeholders to be considered by project developers. Shareholders expect stewardship that safeguards a reasonable margin of profit, and auditing bodies will be monitoring budget variances and costs. Developers may be able to gain benefits from the success of a CBA including:
 - gaining political allies
 - reduced potential for permitting delays since communities voice their support
 - eliminate costs associated with legal hearings
 - improved brand identity for the developer, which can lead to successfully launching projects in other communities leading to “scale” for the developer.
4. *Setting targets.* Experts on CBAs emphasize that participants should share a vision of what the concrete outcomes of the agreement will be and how they will be measured. These targets can be discussed in advance by seeking impartial third-party advice as to what targets are likely to be feasible and acceptable to communities and developers.
5. *Measuring Success and Compliance.* The legal nature of a CBA is considered a strength, and breach of the terms or conditions could lead to a costly legal battle, which all parties would like to avoid. Participants should be aware of and make plans to build strong relationships in the first few years that will last in later years. Participants should also promote oversight mechanisms and strive to develop agreements that are simple, easy to interpret and set out clear and manageable objectives that encourage adaptive change over punishment.

Conclusion

Jurisdictions in Canada are seeing a shift in not only the types of infrastructure and power generation projects being built, but also where these projects are being built. Communities are starting to get involved with small scale renewable and alternative energy solutions, usually connected to the local power distribution system, where these projects have potential to promote community wealth-building. In some areas, developers may experience pushback on renewable energy projects as a result of the perceptions that any benefits are exclusively endowed to those who have lands directly impacted by the development. Developers interested in promoting community-based Small-Scale and/or Micro-generation renewable power projects in Alberta have expressed interest in forming positive, long-term partnerships with community coalitions and municipalities that will support the development of long-term sustainable energy solutions.

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² Andrew Galley, “The Prosperous Province: Strategies for Building Community Wealth,” *Community Benefits Agreements*, (Anchor Institutions by the Mowat Centre for the Atkinson Foundation: 2015), https://munkschool.utoronto.ca/mowatcentre/wp-content/uploads/publications/110_community_benefits_agreements.pdf

In the wake of oil disruption and the economic impacts of COVID-19, the federal government, through its various ministries, will seek to support the expansion of green energy to meet its Action Plan. The current leadership has indicated that green infrastructure maintains priority and should be facilitated through collaboration between existing groups such as the Federation of Canadian Municipalities “Green Communities” and other initiatives such as the Natural Resources Canada (NRCan) REACH program.

In addition to these national efforts, the GoA has directed the Alberta Utilities Commission (AUC) to investigate ways to enable small-scale community generation projects from greener sources, in a Distributed Energy Resource Plan from sources such as geothermal, biomass, wind and solar. The results of these studies will inform policy development as the Province continues to support community generation projects as a way to meet local electricity demand. The Province continues to actively support community generation projects, and the PPP model, through policy development and grant funding.

In preparation for upcoming funding opportunities from the provincial and federal governments, project developers and community groups in Alberta should engage in CBA development activities. This will ensure that proponents align projects with the objectives of the funding groups and maximize stakeholder benefits. As part of these discussions, stakeholders should explore the ways that renewable energy projects can bolster economic well-being in a way that aligns with provincial and federal funding objects while satisfying the financial and non-financial requirements of the community. This will not only lead to meaningful discussion of community participation in clean energy but also of equity ownership structures and enablement strategies.

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