Alberta and Canada move forward with carbon capture, utilization and storage incentives

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On Nov. 28, 2023, the Government of Alberta (Alberta) announced forthcoming incentives for the development of carbon capture, utilization and storage (CCUS) infrastructure. The Alberta Carbon Capture Incentive Program (ACCIP) will offer grant funding of up to 12 per cent of a project's eligible capital costs incurred on new CCUS projects, payable over three years after one year of operation, and is expected to provide $3.2 to $5.3 billion in support between 2024 and 2035.[1]

ACCIP augments the announced federal support for CCUS projects, including the Investment Tax Credit for Carbon Capture, Utilization and Storage (the CCUS ITC) and contracts for difference mechanisms to be offered through the Canada Growth Fund (CGF). Funding from ACCIP will be made available once federal supports are formally legislated and implemented.

This article details the current state of these incentives, which are set to play a large role in Alberta's and Canada's energy transition.

CCUS overview

CCUS refers to technologies that capture carbon dioxide (CO_2) emissions that are produced by industrial activities, compress it for safe transportation, and then utilize the CO_2 or inject it into secure underground geological formations that can permanently, and safely, store the gas. Alberta estimates that up to 90 per cent of the CO_2 produced from the use of fossil fuels in industrial activities can be captured, stored and/or used.[2]

CCUS forms an integral part of Alberta's emissions reduction and energy development plan, which seeks to achieve a net zero carbon neutral economy by 2050.[3]

Details of ACCIP remain to be released

The specifics of ACCIP remain sparse, with further details expected to be provided in spring 2024. Alberta has stated that the program will be available to hard-to-abate industries across sectors including the oil sands, oil and gas production, petrochemicals, hydrogen, power generation and cement production.

Grants will be paid to operators in three installments over three years starting one year after a project is operational, in a process similar to the process under the Alberta Petrochemicals Incentive Program (APIP). APIP provides a grant of 12 per cent of capital costs to new or expanded Alberta-based petrochemical facilities.

ACCIP will be partially funded by Alberta's Technology Innovation and Emissions Reduction Fund (TIER Fund). The TIER fund is financed by large industrial emitters who purchase carbon credits to meet emissions targets under the carbon pricing and emissions trading system established in Alberta's *Technology Innovation and Emissions Reduction Regulation* (the *TIER*).[4]

The CCUS ITC

The CCUS ITC is an announced federal tax credit for businesses that incur eligible CCUS capital expenditures. Formal implementation appears imminent, with the Minister of Finance releasing draft legislation on Nov. 28, 2023 to implement the CCUS ITC as well as other measures announced in Budget 2023 and the Fall Economic Statement.[5] The draft legislation completed first reading on Nov. 30, 2023.[6]

The CCUS ITC will be retroactively available from Jan. 1, 2022 for qualified CCUS projects that direct at least 10 per cent of their captured carbon to an eligible use.[7] Eligible use is defined as the storage of captured carbon in dedicated geological storage or the use of captured carbon in producing concrete in Canada or the United States through a qualified concrete storage process.[8]

The value of qualified capital expenditures will depend, in part, on the percentage of captured carbon put towards eligible uses. The CCUS ITC is then calculated based on the type of expense incurred. The specified percentage for capital expenditures incurred from 2022 – 2030 is:

- 60 per cent for eligible expenditures to capture carbon directly from ambient air;
- 50 per cent for eligible expenditures to capture carbon other than directly from ambient air; and
- 37.5 per cent for eligible expenditures to transport, store or use captured carbon.[9]

The specified rate will then reduce by 50 per cent between 2031 and 2040 and terminate completely thereafter.[10]

To receive the full credit, project proponents must meet certain labour requirements including a prevailing wage requirement and an apprenticeship requirement.[11] Failure to meet the labour requirements can result in the CCUS ITC being reduced by 10 per cent.[12]

Budget 2023 includes other tax incentives that can potentially apply to facilities that have a CCUS component, including the Clean Technology Investment Tax Credit, the Clean Electricity Investment Tax Credit, the Clean Technology Manufacturing Investment Tax Credit and the Clean Hydrogen Investment Tax Credit. Some of these credits remain to be legislated. Based on the information released in Budget 2023, businesses can only claim one of these incentives even if a particular property is eligible for more than one of these tax credits. However, multiple tax credits could be available for the same project, if the project includes different types of eligible property.[13]

Contracts for difference

Exposure to pricing risk in the carbon credit market is a key concern for CCUS project proponents. Contracts for difference can provide proponents with pricing certainty and stability.

In the 2023 Fall Economic Statement, Canada announced that the CGF – a $15 billion arm's length public investment vehicle – would be the principal federal entity issuing carbon contracts for difference.[14]

Under the *TIER*, the Alberta Emission Offset System enables CCUS projects to generate emission offsets, which can be used to comply with emissions targets and can be bought and sold privately. As such, regulated facilities can purchase and use these credits to meet their emission targets.

Based on currently-available information, CGF's contracts for difference will operate by setting a minimum price for carbon – termed the strike price.[15] If the market price of carbon (determined as provided in the contract) falls below the strike price, CGF, as the issuer of the contract, makes up the difference and provides payment to the CCUS project proponent. Contracts for difference can also be "two-way," in which case any excess in the market price above the strike price would be paid to CGF.

The level of assurance provided by a contract for difference would vary depending on how the contract sets the market price of carbon. A mechanism that sets it to equal the Government's currently proposed federal price trajectory, for instance, would provide the proponent with a basic assurance that this trajectory will be implemented and maintained. Even more pricing certainty would be provided by a mechanism that fixes the future value of the carbon credits themselves, but this would require the contracting government to assume the risk of future changes in the market price of carbon credits, not all of which changes would be in its power to influence or control.

CGF has been directed to allocate up to $7 billion, on a priority basis, to issue contracts for difference and offtake agreements. CGF has began negotiating terms with project proponents across a range of sectors.[16]

Takeaways

ACCIP, the CCUS ITC and contracts for difference will help bolster the economics and viability of large-scale CCUS projects in Alberta. The addition of ACCIP on top of the programs offered by the federal government further enhances Alberta's attractiveness for businesses looking to invest in CCUS projects.

With broad industry experience and particular expertise in regulatory frameworks for CCUS projects, BLG's Regulatory Group is here to help our clients navigate the associated opportunities and challenges. For more information on the programs being offered by the provincial and federal governments or anything discussed in this article, please reach out to one of the key contacts below.

Footnotes

[1] Alberta Government, "Alberta Carbon Capture Incentive Program" online: Alberta.ca

[2] Alberta Government, "Alberta emissions reduction and energy development plan," at pg. 18, online: Alberta.ca

[3] Alberta Government, "Alberta emissions reduction and energy development plan," at pg. 6, online: Alberta.ca

[4] *Technology Innovation and Emissions Reduction Regulation*, Alta Reg 133/2019.

[5] Notice of Ways and Means Motion to introduce a bill entitled An Act to implement certain provisions of the fall economic statement tabled in Parliament on November 21, 2023 and certain provisions of the budget tabled in Parliament on March 28, 2023, online.

[6] C-59: An Act to implement certain provisions of the fall economic statement tabled in Parliament on November 21, 2023 and certain provisions of the budget tabled in Parliament on March 28, 2023, online.

[7] Draft Legislation, s. 127.44(1), "qualified CCUS project."

[8] Draft Legislation, s. 127.44(1), "eligible use."

[9] Draft Legislation, s. 127.44(1), "specified percentage."

[10] Draft Legislation, s. 127.44(1), "specified percentage."

[11] Draft Legislation, s. 127.46(2).

[12] Draft Legislation, s. 127.46(1), "reduced tax credit rate."

[13] 2023 Budget Tax Measures, online at page 27.

[14] Canada, "Fall Economic Statement," at pg. 58, online.

[15] Canada, "Canada Growth Fund Technical Backgrounder," at pg. 7, online.

[16] Canada, "Fall Economic Statement," at pg. 58, online.

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