Alberta Energy Regulator

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October 21, 2026

By email only

Hydro Vault Energy Ltd.

Attention: Trevor Dublonko
Katie Anne MacInnis

Alberta Energy Regulator – Regulatory Compliance Branch

Attention: Krista Gibson, Legal Counsel
George Wong, Legal Counsel

Dear Parties:

RE: Request for Regulatory Appeal by Hydro Vault Energy Ltd. (Hydro Vault)
Alberta Energy Regulator – Regulatory Compliance Branch (Regulatory Compliance)
Administrative Sanction: Limited Eligibility - Noncompliance with the 2023 Mandatory Closure Spend Quota dated April 28, 2026
Request for Regulatory Appeal No.: 1961611 (the Request)

The Alberta Energy Regulator (AER) has considered Hydro Vault's request under section 38 of the *Responsible Energy Development Act* (*REDA*) for a regulatory appeal of the Administrative Sanction: Limited Eligibility - Noncompliance with the 2023 Mandatory Closure Spend Quota dated April 28, 2026 (Request). The AER has reviewed and carefully considered Hydro Vault's submissions and the submissions made by Regulatory Compliance.

For the reasons that follow, the AER has decided that Hydro Vault is not entitled to request a regulatory appeal in this matter and the Request is dismissed.

The applicable provision of *REDA* in regard to regulatory appeals, section 38, states:

> 38(1) An **eligible person** may request a regulatory appeal of an **appealable decision** by filing a request for regulatory appeal with the Regulator **in accordance with the rules.** [emphasis added]

Also relevant to consideration of a request for regulatory appeal is section 39(4) of *REDA* which permits the AER to dismiss all or part of a request for regulatory appeal:

> (a) if the Regulator considers the request to be frivolous, vexatious or without merit,
> (b) if the request is in respect of a decision on an application and the eligible person did not file a statement of concern in respect of the application in accordance with the rules, or
> (c) if for any other reason the Regulator considers that the request for regulatory appeal is not properly before it.

Security Classification: Public

I. Background

This matter relates in part to three Notices of Noncompliance (NNC) issued by Regulatory Compliance under D*irective 088: Licensee Life-Cycle Management* (Directive 088). The NNCs were issued on April 24, 2024 (April 2024 NNC), March 25, 2026 (March 2026 NNC), and April 15, 2026 (April 2026 NNC).

On April 4, 2024, Regulatory Compliance issued the April 2024 NNC to Hydro Vault (then known as Free Rein Resources Ltd.) for failing to meet the 2023 Mandatory Closure Spend Quota (MCSQ). The MCSQ is an amount a licensee is required to spend toward closure activities.[1] At that time, Hydro Vault was in active insolvency proceedings, and so the April 2024 NNC did not request that Hydro Vault pay security in relation to its failure to meet the 2023 MCSQ.

On March 25, 2026, Regulatory Compliance issued the March 2026 NNC to Hydro Vault for failing to meet the 2023 MCSQ and requested a security deposit of $111,436.00 be submitted within 30 days of the date of the NNC. Section 1.120(d) of the *Oil and Gas Conservation Rules* (OGCR) requires provision of a security deposit in accordance with *AER Directive 068: Security Deposits* where "the licensee... has not complied with any requirement applicable to the licensee...respecting a closure quota".

The March 2026 NNC stated that failure to come into compliance within 30 days would result in enforcement action, specifically the imposition of limited eligibility in accordance with section 1.300(7) of the OGCR. The March 2026 NNC concerned the same failure to meet the 2023 MCSQ as was the subject of the April 2024 NNC.

On April 15, 2026, Regulatory Compliance issued the April 2026 NNC to Hydro Vault for failing to meet the 2025 MCSQ. The April 2026 NNC required Hydro Vault to submit a security deposit of $274,326.01 within 30 days of the date of that NNC.

On April 28, 2026, in accordance with sections 1.300 and 1.120 of the *OGCR,* the AER imposed a limited eligibility restriction (Administrative Sanction) on Hydro Vault for failing to provide the security deposit required by the March 2026 NNC.

On May 27, 2026, Hydro Vault submitted the Request to the AER.

II. Submissions

Appeal Request

Hydro Vault's Request indicates the decision it is appealing is dated April 28, 2026. However, it also asks the AER to reconsider the assessment of the baseline security deposit owed by Hydro Vault "in light of the extraordinary financial, operational, and restructuring circumstances experienced during the applicable

[1] "Closure" is the permanent end of operations, and includes the abandonment and reclamation of wells, well sites, facilities, facility sites, and pipelines. AER Directive *088: Licensee Life-Cycle Management* at p. 2, para. 1.1 The AER has an "inventory reduction program", the purpose of which is to increase the amount of closure work occurring in Alberta, reduce liability, and increase the amount of land being returned to equivalent capabilities. The Inventory Reduction Program consists of closure quotas, closure nomination, and directed closure. The Mandatory Closure Spend Quota represents the amount a licensee must spend on closure.

compliance period, together with the substantial closure expenditures completed following the restructuring process."

Hydro Vault submits that since completion of restructuring in 2024, it has focused on stabilizing and restoring its operations and addressing outstanding regulatory and operational matters. It says that it has continued to "act responsibly and in good faith with respect to its regulatory obligations despite severe and operational adversity."

Hydro Vault says the three-year rolling compliance assessment does not take into account the extraordinary and temporary circumstance it has experienced. Therefore, the AER should reconsider the baseline security deposit owed by Hydro Vault in light of these circumstances and asks the AER to provide it with relief, accommodation or an alternative compliance arrangement in light of these circumstances.

Response from Regulatory Compliance

Regulatory Compliance submits the RRA is without merit and not properly before the AER and should be dismissed pursuant to sections 39(4) (a) and (c) of *REDA*.

Regulatory Compliance says Hydro Vault appears to be seeking to appeal its 2023 MCSQ obligations rather than the April 28, 2026 Administrative Sanction. However, that sanction does not create, alter or revisit the previous obligations, nor does it involve any re-assessment of Hydro Vault's peer group classification.

Regulatory Compliance says the Administrative Sanction is not based on the April 15, 2026 NNC. Rather, it relates to the 2023 MCSQ and the March 2026 NNC. There is no dispute that the security deposit required by the March 2026 NNC was not paid.

To the extent that the Administrative Sanction is being challenged by the Request, Regulatory Compliance submits that the Administrative Sanction is not a discretionary decision but based on the mandatory language in section 1.300(7) of the *OGCR* which states:

> 1.300(7) The Regulator shall restrict a licensee's or approval holder's eligibility to hold a license or approval if the licensee or approval holder fails to provide a security deposit as required under section 1.120 or 1.130

Hydro Vault Reply Submission

Hydro Vault clarified in its July 15, 2026, submission that it is not seeking to challenge the AER's calculation of the security deposit or asking the AER to reopen or recalculate the 2023 MCSQ. It is challenging the Administrative Sanction. It also confirmed that it understood that the Administrative Sanction relates to the security deposit for 2023 which it acknowledges was unpaid when the Administrative Sanction was imposed.

Hydro Vault acknowledges that the AER is required by the OGCR to restrict a licensee's eligibility when a security deposit has not been provided and it is not asking the AER to disregard that requirement.

Instead, Hydro Vault is asking the AER to consider the unusual circumstances that led to Hydro Vault's noncompliance and the significant corrective work completed since its restructuring. It is asking the AER to

consider whether the Administrative Sanction can be resolved through additional closure work, and alternative compliance plan or another practical path to compliance and allow it to provide further information regarding operations, closure spend and a proposed plan.

III. Reasons for Decision

There was some ambiguity based on the wording of the Request as to what "decision" Hydro Vault was seeking to appeal, However, Hydro Vault's reply submission makes clear that it is the April 28, 2026, Administrative Sanction that it is challenging and not any of the NNCs or other earlier decisions.

Section 38 of REDA

As noted above, when the AER considers a request for a regulatory appeal, it must decide if the request complies with section 38 of the *REDA*:

> 38(1) An eligible person may request a regulatory appeal of an appealable decision by filing a request for regulatory appeal with the Regulator in accordance with the rules. [emphasis added]

This section makes clear that only an "appealable decision" can be appealed. Section 36(a) of REDA defines appealable decision and describes a number of types of decisions which are appealable. What is common throughout all of section 36(a) is that these are all "decisions" as they represent a conclusion or resolution reached by the AER after consideration of a matter. These appealable decisions all resulted from the exercise of discretion by the decision-maker who made a choice in arriving at the decision.

In this matter, the AER had no choice regarding the imposition of eligibility restriction as set out in section 1.300(7) of the OGCR. The language of that section is clear that the AER "shall ... restrict a licensee's ... eligibility to hold a license or approval if the licensee... fails to provide a security deposit as required under section 1.120 and 1.130". This section directs the limitation of eligibility; it does not authorize the AER to make a decision. Upon Hydro Vault's failure to pay the security deposit required by the March 2026 NNC, the limitation of eligibility was automatic.

The Administrative Sanction was imposed on Hydro Vault by operation of law and thus was not an appealable decision. As such, section 38 is not satisfied as the Request does not challenge an appealable decision.

Given our conclusion that the Administrative Sanction is not an appealable decision, it is unnecessary to address whether Hydro Vault is an "eligible person" or whether the Request was made "in accordance with the rules".

Section 39(4) of REDA

Even if the Administrative Sanction could be characterized as an appealable decision, we would dismiss the Request because it is meritless.

As noted above, subsection 39(4) of REDA provides the AER with the authority to dismiss all or part of a request for a regulatory appeal where the request is without merit or for any other reason, not properly before the AER.

The mandatory language of section 1.300(7) requires the limitation of eligibility where the security deposit required by section 1.120 has not been provided to the AER. That is what occurred in the present circumstances. At a hearing, the AER hearing commissioners presiding over the hearing could not provide the relief sought by Hydro Vault because of the mandatory language of section 1.300(7). As such, the requested appeal is without merit and not properly before the AER.

On this basis, even if section 38 of REDA was satisfied in this matter, we would dismiss the Request as being without merit and not properly before the AER.

IV. Conclusion

For the reasons given above, the Request is denied. Hydro Vault is not granted a regulatory appeal.

We do note that Hydro Vault does have an alternative remedy that it may wish to pursue. This remedy is referred to on page 2 of the Administrative Sanction. It states:

> Hydro Vault Energy Ltd. may reapply for Directive 067 General Eligibility in the future.

Sincerely,

<Original signed by>

Karen Lilly
Vice President, Law and Associate General Counsel

<Original signed by>

Barbara Pullishy
Senior Advisor, Regulatory

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Steve Thomas
Director, Oil & Gas Subsurface, Waste & Storage

cc: Compliance Verification, AER
Dale Rinas, Hydro Vault