



AltaGas Pipeline Partnership

Preferential Sharing of Records between AltaGas Pipeline Partnership and URICA Energy Real Time Ltd.

December 4, 2015

Alberta Utilities Commission

Decision 20837-D01-2015

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Preferential Sharing of Records between AltaGas Pipeline Partnership and URICA Energy Real Time Ltd.

Application 20837-A001

Proceeding 20837

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Fifth Avenue Place, Fourth Floor, 425 First Street S.W.

Calgary, Alberta

T2P 3L8

Telephone: 403-592-8845

Fax: 403-592-4406

Website: www.auc.ab.ca

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1 Introduction and background

1. On September 16, 2015, AltaGas Pipeline Partnership (AltaGas) filed an application¹ with the Alberta Utilities Commission (AUC or the Commission) pursuant to Section 3 of the *Fair, Efficient and Open Competition Regulation*, AR 159/2009, seeking an order from the Commission permitting the sharing of records not available to the public between AltaGas and URICA Energy Real Time Ltd. (URICA).

2. In its application, AltaGas submitted that it was in negotiations with TransCanada Energy Ltd. (TransCanada) where 100 per cent of the interest in the Sundance Unit B3 Power Purchase Arrangement (PPA) will be transferred to AltaGas, and 100 per cent of the interest in the Sundance Unit B4 PPA will be transferred to TransCanada. AltaGas submitted that upon the closing of this transaction, it will assume all of the rights and obligations as the PPA buyer of Sundance Unit B3 and that it has engaged the services of URICA to provide all dispatch services related to the output of Sundance Unit B3 on behalf of AltaGas.²

3. URICA is an independent energy services and consulting firm offering services that include energy dispatch services and ancillary marketing services³ to independent power generators and load consuming entities. URICA presently acts as agent for other clients to market their generation or load capacity into the Alberta operating reserves market that is operated by the Alberta Electric System Operator (AESO).⁴

4. The agreement between AltaGas and URICA appoints URICA as AltaGas's agent to, among other things, dispatch physical electrical energy and ancillary services from Sundance Unit B3 into the Alberta real time electricity and ancillary service markets operated by the AESO. AltaGas submitted that it will be providing URICA with price and quantity offers related to the available output of Sundance Unit B3, and that URICA will have no involvement in any matters related to offer strategy, which will be solely determined by AltaGas.⁵

¹ Application 20837-A001.

² Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 2, paragraph 1.

³ As defined by the AESO, ancillary services are services that are required to ensure that electricity can be transmitted reliably, efficiently, and securely across Alberta's interconnected transmission system. Ancillary services include operating reserve, transmission must run, black start services, and load shed scheme services. Operating reserves consist of regulating reserves, spinning reserves and supplemental reserves, all products that the AESO's system controller utilizes to ensure that the supply-demand of electricity in Alberta is balanced seamlessly in real-time operations.

⁴ Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 3, paragraph 2, and PDF page 5, paragraph 12.

⁵ *Ibid.*, PDF pages 4-5, paragraph 9.

5. On September 21, 2015, the Commission issued notice of the application made by AltaGas.⁶ In the notice of application, the Commission advised that the parties granted standing in the proceeding were limited to AltaGas and the Market Surveillance Administrator (MSA) in accordance with Section 3(5) of the *Fair, Efficient and Open Competition Regulation*. The notice of application established a process and schedule for the MSA to determine whether it would intervene in the proceeding and to advise the Commission whether it required an evidentiary process.

6. On September 25, 2015, the MSA filed a Statement of Intent to Participate in the proceeding, and advised that it supported the application. The MSA added that it did not require an evidentiary process involving information requests and the filing of evidence.⁷

7. On October 26, 2015, the Commission requested additional details from AltaGas by way of an information request, seeking clarifications with regard to AltaGas's communication with TransAlta Corporation (TransAlta), the PPA owner of Sundance Unit B3, and how AltaGas participates in the operating reserves market.⁸

8. The responses to the Commission's information request submitted by AltaGas on November 3, 2015 provided additional details about TransAlta's uprate at Sundance Unit B3, how TransAlta interacts with AltaGas on this, and how AltaGas participates in the operating reserves markets. Accordingly, the record for Proceeding 20837 closed on November 3, 2015.

9. A glossary of abbreviations used in this decision may be found in [Appendix 2](#).

10. In reaching the determinations contained within this decision, the Commission has considered all relevant materials comprising the record of this proceeding. Accordingly, references in this decision to specific parts of the record are intended to assist the reader in understanding the Commission's reasoning relating to a particular matter and should not be taken as an indication that the Commission did not consider all relevant portions of the record with respect to that matter.

2 Relevant statutory and regulatory provisions

11. The relevant statutory provisions respecting the sharing by market participants of records that are not available to the public are found in the *Fair, Efficient and Open Competition Regulation*, the *Alberta Utilities Commission Act*, SA 2007, C. A-37.2 and the *Electric Utilities Act*, SA 2003, c. E-5.1, under which this regulation was enacted.

12. Section 5 of the *Electric Utilities Act* lists some of its purposes as follows:

...

- (b) to provide for a competitive power pool so that an efficient market for electricity based on fair and open competition can develop, where all persons wishing to exchange electric energy through the power pool may do so on non-discriminatory terms ...;

⁶ Exhibit 20837-X0004, Notice of Application, September 21, 2015.

⁷ Exhibit 20837-X0009, MSA statement of intent to participate, September 25, 2015, page 1.

⁸ Exhibit 20837-X0010, AUC round 1 information request to AltaGas, October 26, 2015.

- (c) to provide for rules so that an efficient market for electricity based on fair and open competition can develop in which neither the market nor the structure of the Alberta electric industry is distorted by unfair advantages of government-owned participants or any other participant;

...

- (e) to enable customers to choose from a range of services in the Alberta electric industry, including a flow-through of pool price and other options developed by a competitive market, and to receive satisfactory service;

...

- (h) to provide for a framework so that the Alberta electric industry can, where necessary, be effectively regulated in a manner that minimizes the cost of regulation and provides incentives for efficiency.

13. The *Electric Utilities Act* further states in Section 6 that “[m]arket participants are to conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the market.”

14. Section 3(1) of the *Fair, Efficient and Open Competition Regulation* establishes that a market participant shall not share records that are not available to the public relating to any past, current or future price and quantity offer made to the power pool or for the provision of ancillary services. Section 3(2) of the *Fair, Efficient and Open Competition Regulation* establishes instances where records that are not available to the public may be shared. Section 3(3) of the *Fair, Efficient and Open Competition Regulation* allows the Commission to issue an order permitting the sharing of records, stating:

(3) The Commission may, on application by a market participant that is otherwise prohibited from sharing records referred to under subsection (1), issue an order permitting the sharing of those records on any terms and conditions the Commission considers appropriate where the market participant establishes that

- (a) the records will not be used for any purpose that does not support the fair, efficient and openly competitive operation of the electricity market, including the conduct referred to in section 2, and

- (b) the sharing of the records is reasonably necessary for the market participant to carry out its business.

15. Section 2 of the *Fair, Efficient and Open Competition Regulation* identifies conduct by a market participant that does not support the fair, efficient and openly competitive operation of the market. Relevant to the sharing of records, prohibited conduct would include:

...

- (h) restricting or preventing competition, a competitive response or market entry by another person, including

- (i) a market participant directly or indirectly colluding, conspiring, combining, agreeing or arranging with another market participant to restrict or prevent competition, ...

...

- (j) manipulating market prices, including any price index, away from a competitive market outcome;

16. The sharing by market participants of their non-public records has the potential to allow collusion and price-fixing by these participants, especially if the participants have a substantial market share or market power. Such collusion is harmful to the marketplace as a whole, especially consumers. It is, therefore, incumbent upon the Commission to carefully scrutinize record-sharing agreements in order to maintain the competitive environment that the *Electric Utilities Act* so ardently emphasizes as its goal.

17. Additionally, the *Electric Utilities Act* stresses that any regulatory framework should minimize the costs of regulation and allow for efficiencies.

18. With that in mind, the Commission must look to any record-sharing agreement under the twin lenses established by Section 5 of the *Electric Utilities Act* and Section 3(3) of the *Fair, Efficient and Open Competition Regulation*.

3 Discussion and findings

3.1 Fair, efficient and openly competitive operation of the market

19. Section 5(5) of the *Fair, Efficient and Open Competition Regulation* prohibits any market participant from holding offer control in excess of 30 per cent of the total maximum capability of generating units in Alberta.

20. AltaGas submitted that once it acquires the Sundance Unit B3 PPA, the total market share offer control represented by itself and all associates (as defined in Section 5(1) of the *Fair, Efficient and Open Competition Regulation*) will be 2.66 per cent offer control of the energy market.⁹ At the time of the application, AltaGas submitted that URICA and all its associates represented 0.44 per cent offer control of the energy market and approximately 14.57 per cent of the operating reserves market. Should the Sundance Unit B3 PPA be managed by URICA, URICA's total offer control of the energy market and operating reserves market would remain unchanged because AltaGas will retain offer control over the Sundance Unit B3 PPA. AltaGas also submitted that its largest potential share of the operating reserve market, under ideal conditions, would still be far less than 30 per cent of the total operating reserves market.¹⁰ Assuming AltaGas and URICA enter into the proposed commercial relationship, neither AltaGas nor URICA would be in excess of the 30 per cent limitation set out in Section 5(5) of the *Fair, Efficient and Open Competition Regulation*.¹¹

21. In its application, AltaGas submitted that there is an increased capacity agreement in place between the Sundance Unit B3 PPA and the PPA owner, TransAlta. AltaGas submitted that pursuant to the agreement, TransAlta has no offer control in respect of the increased capacity of 15 MW, but rather communicates a reference offer price for the increased capacity, which is used for purposes of financial settlement only.¹² In response to an information request, AltaGas

⁹ Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 5, paragraph 11.

¹⁰ Exhibit 20837-X0011, AltaGas responses to AUC information requests, November 3, 2015, PDF page 6.

¹¹ Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 5, paragraph 12.

¹² *Ibid.*, PDF page 5, paragraph 10.

confirmed that the PPA buyer for the Sundance Unit B3 PPA will have full offer control over the unit, including the increased capacity; that TransAlta will only communicate its reference offer price to AltaGas's accounting group, and; that this reference offer price will not be shared with URICA.¹³

22. AltaGas submitted that in order for URICA to provide dispatch services on its behalf, it will be necessary for AltaGas to share records that are not available to the public.¹⁴ AltaGas further submitted that while URICA will have authority to post energy offers to the AESO on behalf of AltaGas, URICA will have no involvement in any matters related to offer strategy, which will be determined solely by AltaGas.¹⁵

23. A senior officer of AltaGas provided a written representation indicating that any preferential records shared by AltaGas to URICA would not be used for any purpose that does not support the fair, efficient and openly competitive operation of the Alberta electricity market, including the conduct proscribed in Section 2 of the *Fair, Efficient and Open Competition Regulation*. The representation also stated that AltaGas has adopted a Electricity Marketing Compliance Plan relating to compliance with, among other things, the *Fair, Efficient and Open Competition Regulation*, and that AltaGas takes matters of compliance with the *Fair, Efficient and Open Competition Regulation* seriously.¹⁶

24. AltaGas filed a similar representation from a senior officer at URICA to confirm that any records that URICA receives will not be used by URICA for any purpose that does not support the fair, efficient and openly competitive operation of the electricity market. The representation also stated that there exists a formal compliance program at URICA that all employees, officers, and its affiliates must read and comply with, and that all officers and employees of URICA must submit signed acknowledgements to confirm that they understand and will comply with the compliance program and the *Fair, Efficient and Open Competition Regulation*.¹⁷

25. Information on various aspects of URICA's internal compliance program was outlined as follows:

- (a) a representation that URICA identifies the confidentiality of client information as the backbone of its business model to maintain impartial treatment of each URICA client;¹⁸
- (b) a FEOC Compliance Plan that lists those responsible for compliance at URICA and outlines URICA's code of conduct, specifying that URICA will comply with all the provisions and requirements of the *Fair, Efficient and Open Competition Regulation*;¹⁹
- (c) a Compliance Plan at URICA that lists the corporate structure of URICA and specifies that all personnel receive one-on-one training on its Compliance Plan to inform and

¹³ Exhibit 20837-X0011, AltaGas responses to AUC information requests, November 3, 2015, PDF page 3.

¹⁴ Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 3, paragraph 3.

¹⁵ *Ibid.*, PDF page 4, paragraph 9.

¹⁶ *Ibid.*, PDF page 10.

¹⁷ *Ibid.*, PDF pages 12-13.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, PDF pages 15-24.

educate URICA personnel on the contents of the Compliance Plan along with their personal duties and responsibilities;²⁰

- (d) compliance reporting at URICA that is completed on an “as required” or annual basis, with copies of these reports forwarded to the MSA.²¹

Commission findings

26. Based on the information contained in the application and the information responses, the Commission finds that the offer control held by AltaGas does not exceed the threshold of 30 per cent of the total maximum capability of the generating units in Alberta as set out in the *Fair, Efficient and Open Competition Regulation*.

27. The agreement between AltaGas and URICA specifies that in providing dispatch related services for the Sundance Unit B3 PPA, URICA will have no involvement in any matters related to offer strategy, which will be solely determined by AltaGas. The Commission also notes that offer control for the Sundance Unit B3 PPA, including TransAlta’s 15 MW increased capacity, will belong solely to AltaGas once the transaction to transfer all of the offer control for the Sundance Unit B3 PPA to AltaGas has been completed.²²

28. The Commission accepts and will rely on the representations of AltaGas and URICA in the application regarding the compliance policies, programs and existing plans for internal compliance to manage confidential information associated with the Sundance Unit B3 PPA in the manner contemplated by the *Fair, Efficient and Open Competition Regulation* as sufficient assurances that no confidential information will be shared between the parties for the purposes of price-fixing, price-manipulation or any other conduct prohibited by the *Fair, Efficient and Open Competition Regulation*.

29. Based on the statements and representations of the parties, the Commission finds that the applicant has established that it is not likely that the records proposed to be shared between AltaGas and URICA will be used for any purpose that does not support the fair, efficient and openly competitive operation of the Alberta electricity market.

3.2 Reasonably necessary

30. AltaGas submitted that it does not currently have adequate personnel to accept energy or ancillary services dispatch orders or manage the output of generating assets of the magnitude of Sundance Unit 3 in the Alberta energy or ancillary services markets on a 24 hour basis.²³ AltaGas also provided a representation from a senior officer that the sharing of preferential records described in the application with URICA is reasonably necessary for AltaGas to carry out the rights and obligations under the terms of the Sundance Unit B3 Power Purchase Arrangement that it is assuming.²⁴

²⁰ *Ibid.*, PDF pages 18-19.

²¹ Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 21.

²² *Ibid.*, PDF page 5.

²³ *Ibid.*, PDF page 4, paragraph 6.

²⁴ *Ibid.*, PDF page 10.

Commission findings

31. The Commission accepts the statements of AltaGas regarding the nature of the records that will be shared and the purpose in sharing the records. The Commission accepts and will rely on the representation provided by a senior officer of AltaGas that the proposed sharing of information is reasonably necessary for AltaGas to carry out its business.

32. For the above reasons, the Commission finds that AltaGas has established that the sharing of the records as described in the application is reasonably necessary for AltaGas to carry out its business.

3.3 Terms and conditions

33. Section 3(3) of the *Fair, Efficient and Open Competition Regulation* authorizes the Commission to issue an order permitting the sharing of records on any terms and conditions that the Commission considers appropriate.

34. AltaGas submitted that the term for the requested order is from the date upon which AltaGas gains 100 per cent control in the Sundance Unit B3 PPA (expected to be no later than January 1, 2016)²⁵ to December 31, 2020, when the Sundance Unit B3 PPA expires, or such sooner date as AltaGas may advise.²⁶

Commission findings

35. The Commission approves AltaGas's application to share records referred to in Section 3(1) of the *Fair, Efficient and Open Competition Regulation* with URICA from the date of this decision until the earlier of December 31, 2020 or the termination of the commercial agreement between AltaGas and URICA in accordance with the terms of the order provided below.

²⁵ Exhibit 20837-X0001, Preferential sharing of records application registered September 16, 2015, PDF page 2, paragraph 1.

²⁶ *Ibid.*, PDF page 3, paragraph 4.

4 Order

36. It is ordered, pursuant to the provisions of Section 3 of the *Fair, Efficient and Open Competition Regulation*, that the records referred to in Section 3(1) of the *Fair, Efficient and Open Competition Regulation* be permitted to be shared between AltaGas Pipeline Partnership and URICA Energy Real Time Ltd. from the date of this order until December 31, 2020 subject to the following terms and conditions:

- a) The order only applies to the sharing of information between AltaGas Pipeline Partnership and URICA Energy Real Time Ltd. relating to price, quantity, and availability information for the Sundance Unit B3 PPA with respect to offers in the Alberta electricity and ancillary services markets;
- b) AltaGas Pipeline Partnership must notify the Commission of the termination of the commercial arrangements between AltaGas Pipeline Partnership and URICA Energy Real Time Ltd. within 30 days of the termination of commercial arrangements; and
- c) AltaGas Pipeline Partnership must notify the Commission of any material changes to the information and continued applicability of any representations contained within its application that may affect the compliance of AltaGas Pipeline Partnership or URICA Energy Real Time Ltd. with the *Fair, Efficient and Open Competition Regulation* within 30 days of the material changes.

Dated on December 4, 2015.

Alberta Utilities Commission

(original signed by)

Tudor Beattie, QC
Panel Chair

(original signed by)

Anne Michaud
Commission Member

(original signed by)

Bill Lyttle
Commission Member

APPENDIX 1 – PROCEEDING PARTICIPANTS

Name of organization (abbreviation) counsel or representative
AltaGas Pipeline Partnership (AltaGas) Allison Sears – Stikeman Elliott LLP Peter Karl Cameron Hughes
Market Surveillance Administrator (MSA) Mark Nesbitt Andrew Wilkins

Alberta Utilities Commission
Commission Panel Tudor Beattie, QC, Panel Chair Anne Michaud, Commission Member Bill Lyttle, Commission Member
Commission Staff Elizabeth von Engelbrechten (Commission Counsel) Kenneth Wyllie (Economic Research Analyst, Market Oversight and Enforcement)

APPENDIX 2 – Abbreviations

Abbreviation	Name in Full
AltaGas	AltaGas Pipeline Partnership
AESO	Alberta Electric System Operator
AUC or the Commission	Alberta Utilities Commission
MSA	Market Surveillance Administrator
MW	Megawatt(s)
PPA	Power Purchase Arrangement
TransAlta	TransAlta Corporation
URICA	URICA Energy Real Time Ltd.