



Fengate Central Utilities Block GP Inc.

Application for an Order Permitting the Sharing of Records Not Available to the Public Between Fengate Central Utilities Block GP Inc., Fengate Central Utilities Block LP, Heartland Petrochemical Complex Limited Partnership, Inter Pipeline Propylene Ltd., URICA Energy Real Time Ltd. and URICA Asset Optimization Ltd.

June 10, 2021

Alberta Utilities Commission

Decision 26543-D01-2021

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Propylene Ltd., URICA Energy Real Time Ltd. and
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Proceeding 26543

Application 26543-A001

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1 Decision summary

1. In this decision, the Alberta Utilities Commission considers whether to approve an application brought under Section 3 of the *Fair, Efficient and Open Competition Regulation*, by Fengate Central Utilities Block GP Inc. (Fengate), for the preferential sharing of records that are not available to the public between Fengate, Fengate Central Utilities Block LP (Fengate LP), Heartland Petrochemical Complex Limited Partnership (Heartland), Inter Pipeline Propylene Ltd. (Inter Pipeline), URICA Energy Real Time Ltd. (URICA Real Time) and URICA Asset Optimization Ltd. (URICA Optimization).

2. As discussed in greater detail below, Fengate established that the sharing of such records is reasonably necessary for it to carry out its business and that the shared records will not be used for any purpose that will not support the fair, efficient and openly competitive operation of the electricity market. On this basis, and noting the support of the Market Surveillance Administrator (MSA), the Commission has granted the application to permit the sharing of records pertaining to the electricity and ancillary services markets under Subsection 3(3) of the *Fair, Efficient and Open Competition Regulation*.

2 Introduction and procedural background

3. On May 18, 2021, Fengate, as general partner and on behalf of Fengate LP, filed an application¹ with the AUC pursuant to Section 3 of the *Fair, Efficient and Open Competition Regulation*, AR 159/2009. The application sought an order from the Commission permitting the sharing of records not available to the public between Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization, relating to the 102-megawatt (MW) Heartland Petrochemical Complex Central Utility Block Power Plant (CUB Power Plant), which consists of two 51-MW natural-gas fired turbine generators. As part of its application, Fengate requested that the Commission issue the order by June 21, 2021.

4. Fengate LP acquired the CUB Power Plant from Inter Pipeline and entered into long-term agreements which involve Inter Pipeline managing both the construction and day-to-day operations of the CUB Power Plant. Heartland is an affiliate of Inter Pipeline.

5. In its application, Fengate identified that Fengate LP and Heartland have entered into commercial arrangements with URICA Real Time, which, among other things, appoints URICA Real Time as an agent of Fengate LP and Heartland to provide advisory and real-time

¹ Application 26543-A001.

dispatch and restatement services with respect to the CUB Power Plant. Additionally, Fengate LP and Heartland have entered into commercial arrangements with URICA Optimization, which works with clients to consider various pricing options and strategies for assets. These arrangements will make it necessary for Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization to share with each other certain records that are not otherwise available to the public, including energy prices, volume pairs and available capability. The agreement between the companies is for dispatch services to be provided until the earlier of June 1, 2029, or the termination of the commercial arrangements.

6. The Commission issued notice of the application on May 25, 2021. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to Fengate and the MSA, in accordance with Subsection 3(5) of the *Fair, Efficient and Open Competition Regulation*.

7. On June 7, 2021, the MSA advised the Commission that it supports the application of Fengate and does not require further evidentiary process.

8. The Commission considers the record for this proceeding closed as of June 7, 2021.

9. 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.

3 The Commission's authority to allow record sharing

10. Subsection 3(1) of the *Fair, Efficient and Open Competition Regulation* establishes that an electricity 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. Subsection 3(2) establishes instances where records that are not available to the public may be shared. Subsection 3(3) 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.

11. Another factor that the Commission considers in making a determination on the sharing of records is market share offer control. Subsection 5(5) of the *Fair, Efficient and Open Competition Regulation* states that a market participant shall not hold offer control in excess of 30 per cent of the total maximum capability of generating units in Alberta.

12. The Commission is also cognizant of the requirement in Section 6 of the *Electric Utilities Act* that “[m]arket participants are to conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the market.”

4 Submissions of the applicant

4.1 Is the proposed sharing of records reasonably necessary

13. In its application, Fengate identified that Fengate LP and Heartland have entered into commercial arrangements with URICA Real Time and URICA Optimization to share records for the CUB Power Plant relating to the dispatch of electricity services. This will necessitate that Fengate, Fengate LP, Heartland and Inter Pipeline share offer information with URICA Real Time and URICA Optimization that is not available to the public.

14. Fengate explained that neither Fengate LP nor Heartland has adequate personnel or the resources to accept energy or ancillary services dispatch orders, in order to manage the output of the CUB Power Plant in the Alberta energy or ancillary services markets on a 24-hour basis.

15. URICA Real Time has the necessary expertise and resources to assist Fengate LP and Heartland by providing 24-hour real-time dispatch desk service for operational energy market services and energy restatements for events at generators as required by the independent system operator (ISO) rules.

16. URICA Optimization has the necessary expertise and resources to assist Fengate LP and Heartland by helping them to establish and optimize offer strategies for the CUB Power Plant.

17. For these reasons, Fengate asserted that the sharing of non-public records relating to the CUB Power Plant with URICA Real Time and URICA Optimization is reasonably necessary in order for it to carry out its business regarding the CUB Power Plant. Written representations from senior officers of Fengate, on behalf of itself and Fengate LP, and from Inter Pipeline, on behalf of itself and Heartland, attesting to the necessity for the sharing of records with URICA Real Time and URICA Optimization, were filed with the application.

4.2 Fair, efficient and openly competitive operation of the electricity market

18. As part of its application, Fengate, on behalf of itself and Fengate LP, and Inter Pipeline, on behalf of itself and Heartland, filed written representations from senior officers of Fengate and Inter Pipeline indicating that the records subject to preferential information sharing will not be used for any purpose that does not support the fair, efficient and openly competitive operation of the Alberta electricity market, including but not limited to, the conduct referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*.

19. The aforementioned written representations also identified that Fengate, Fengate LP, Inter Pipeline and Heartland have codes of conduct in place to safeguard confidential and commercially sensitive information and access to such information, including non-public quantity-offer information and the confidential information of companies with which the aforementioned companies do business. All of the employees and affiliated companies must comply with these codes. Further, any confidential information held by the aforementioned companies will be distributed and made available only to those who are both authorized and required to use the information.

20. Written representations from senior officers of URICA Real Time and URICA Optimization were filed with the application, which confirm that any records shared with URICA Real Time and URICA Optimization will not be used for any purpose that does not support the fair, efficient and openly competitive operation of the Alberta electricity market, including but not limited to, the conduct referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*.

21. The senior officers of URICA Real Time and URICA Optimization confirmed that URICA Real Time and URICA Optimization have a formal compliance plan and program in place to safeguard confidential and commercially sensitive information and access to such information, including non-public quantity-offer information and the confidential information of companies with which URICA Real Time and URICA Optimization do business. All of URICA Real Time's and URICA Optimization's employees, officers and affiliates are required to acknowledge and comply with the compliance plan and the *Fair, Efficient and Open Competition Regulation*. Access to secured information is strictly controlled and monitored.

4.3 Offer control

22. Fengate advised that Fengate and Fengate LP's total offer control is 0.4 per cent, that Heartland and Inter Pipeline's total offer control is 0.4 per cent, that URICA Real Time's total offer control is zero per cent and that URICA Optimization's total offer control is 1.0 per cent, all of which are less than the offer-control limit of 30 per cent, as set out in Subsection 5(5) of the *Fair, Efficient and Open Competition Regulation*.

5 Commission findings

23. Subsection 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, provided that certain requirements are satisfied. For the reasons that follow, the Commission finds that those requirements have been met.

24. The Commission is satisfied that Fengate has demonstrated that (i) the sharing of records is reasonably necessary for Fengate LP and Heartland to carry out their business; and (ii) the subject records will 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 referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*. The Commission is further satisfied that Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization will conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the market. In making these findings, the Commission has relied on:

- (a) Submissions from Fengate stating that neither Fengate LP nor Heartland has adequate personnel or the resources required to monitor facility operations on a 24-hour basis, nor is the plant of sufficient size to justify the creation of a dedicated internal dispatch desk.
- (b) Written representations from senior officers of Fengate, Inter Pipeline, URICA Real Time and URICA Optimization confirming that any records subject to preferential information sharing will not be used for any purpose that does not support the fair, efficient and openly competitive operation of the Alberta electricity market and that they will conduct themselves in a manner that supports the fair, efficient and openly competitive operation of the market.
- (c) Written representations from Fengate and Inter Pipeline confirming that they have a formal system of controls and policies that ensure the information shared with URICA Real Time and URICA Optimization will 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 referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*. The Commission understands that all officers and employees of Fengate, Fengate LP, Heartland and Inter Pipeline are required to comply with these policies.
- (d) Representations from URICA Real Time and URICA Optimization that they have formal systems of controls and policies that ensure the information shared with URICA Real Time and URICA Optimization will 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 referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*. The Commission understands that all officers and employees of URICA Real Time and URICA Optimization are required to comply with these policies.

25. The Commission also finds that offer-control figures for all entities involved (both before and after any approval to share records) are less than the offer-control limit of 30 per cent, as set out in Subsection 5(5) of the *Fair, Efficient and Open Competition Regulation*.

26. Finally, the Commission considers the MSA's support of this application to be a contributing factor in its determination to permit the sharing of records, given the MSA's mandate under Subsection 39(2)(a)(vi) of the *Alberta Utilities Commission Act* to survey, investigate or enforce the "arrangements, information sharing and decisions relating to electricity market participants exchanging or wishing to exchange electric energy and ancillary services or any aspect of those activities."

27. For all of the above reasons, the Commission is prepared to issue an order allowing Fengate, Fengate LP, Heartland and Inter Pipeline to share records not available to the public with URICA Real Time and URICA Optimization, subject to the following terms and conditions:

- (a) The order applies to the sharing of non-public price, quantity and availability information, between Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization, pertaining to the CUB Power Plant, that may relate to the CUB Power Plant's participation in the Alberta electricity and ancillary services markets, as described in the application.
- (b) Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization must notify the Commission of the termination of the commercial arrangements between Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization as soon as is practicable and within 30 days of the termination of such commercial arrangements;
- (c) Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization must notify the Commission of any material changes to the information and continued applicability of any representations included within its application that may affect the compliance of Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time or URICA Optimization with the *Fair, Efficient and Open Competition Regulation* as soon as is practicable and within 30 days of the material changes.

28. The order shall be effective from the date of this decision until the earlier of June 1, 2029, or the termination of commercial arrangements between Fengate, Fengate LP, Heartland, Inter Pipeline, URICA Real Time and URICA Optimization.

6 Order

29. Pursuant to the provisions of Section 3 of the *Fair, Efficient and Open Competition Regulation*, the Commission approves the application for the sharing of records set out in the following order granted to Fengate Central Utilities Block GP Inc., Fengate Central Utilities Block LP, Heartland Petrochemical Complex Limited Partnership, Inter Pipeline Propylene Ltd., URICA Energy Real Time Ltd. and URICA Asset Optimization Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records – Heartland Petrochemical Complex Central Utility Block Power Plant – Order 26543-D02-2021 – June 10, 2021

Dated on June 10, 2021.

Alberta Utilities Commission

(original signed by)

Fino Tiberi
Executive Director, Market Oversight and Enforcement Division
On behalf of the Alberta Utilities Commission