



AUC

Alberta Utilities Commission

Enbridge Pipelines Inc.

**Application for an Order Permitting the Sharing
of Records Not Available to the Public Between
Enbridge Pipelines Inc., Tidal Energy Marketing Inc.
and URICA Energy Real Time Ltd.**

September 15, 2021

Alberta Utilities Commission

Decision 26819-D01-2021

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Enbridge Pipelines Inc., Tidal Energy Marketing Inc.
and URICA Energy Real Time Ltd.

Proceeding 26819

Application 26819-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 Enbridge Pipelines Inc., for an order to permit the preferential sharing of records that are not available to the public between Enbridge, Tidal Energy Marketing Inc. and URICA Energy Real Time Ltd.

2. As discussed in greater detail below, Enbridge 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 for an order 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 August 27, 2021, Enbridge 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 Enbridge and URICA, relating to the 20.01-megawatt (MW) South Edmonton Terminal Power Generation Facility (asset ID SET1), which will consist of six Jenbacher J620 natural gas-fueled generator units located within the boundary of Enbridge's South Edmonton Terminal property, each with 3.335-MW capacity. As part of its application, Enbridge requested that the Commission issue the order by October 4, 2021.

4. Enbridge had previously identified that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of Enbridge to provide 24-hour real-time dispatch-desk service for operational energy market services, ancillary services, dispatch-down services and energy restatements with respect to SET1. These arrangements make it necessary for Enbridge and URICA 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.

¹ Application 26819-A001.

5. In Order 26257-D02-2021, Enbridge and URICA were granted permission to share the aforementioned non-public information. In its current application, Enbridge identified that, based on experience gained through SET1's operations, it has determined that the development and communication of price-quantity pairs in the energy and ancillary services markets to URICA would be most efficiently conducted through the involvement of both Enbridge and Tidal employees.

6. The AUC issued notice of the application on September 1, 2021. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to Enbridge and the MSA, in accordance with Subsection 3(5) of the *Fair, Efficient and Open Competition Regulation*.

7. On September 3, 2021, the MSA advised the Commission that it supports the application of Enbridge and does not require further evidentiary process.

8. The Commission considers the record for this proceeding closed as of September 3, 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, Enbridge identified that Tidal is a wholly owned subsidiary of Enbridge and can assist with the management of SET1’s output. This requires modification to the existing commercial arrangements and order permitting the sharing of non-public records related to SET1, to include Tidal.

14. Enbridge reiterated that it does not have adequate personnel or the resources to accept energy or ancillary services dispatch orders in order to manage the output of SET1 in the Alberta energy or ancillary services markets on a 24-hour basis.

15. The added involvement of Tidal employees is because Tidal has the necessary expertise and resources both to formulate energy and ancillary services offers on behalf of Enbridge for SET1, and to communicate these offers directly with URICA on a routine basis as required. Enbridge has determined that this arrangement will be more efficient for SET1’s participation in the energy and ancillary services markets.

16. URICA provides a 24-hour real-time dispatch-desk service to clients for operational energy market services, ancillary services, dispatch-down services and energy restatements for events at generators as required by the independent system operator rules and has the necessary expertise and resources to assist Enbridge.

17. For these reasons, Enbridge asserted that the sharing of non-public records relating to SET1 with Tidal and URICA is reasonably necessary in order for it to carry out its business regarding SET1. Written representations from senior officers of Enbridge and Tidal attesting to the necessity for the sharing of records with URICA were filed with the application.

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

18. As part of Enbridge’s application, Enbridge and Tidal filed written representations from senior officers of Enbridge and Tidal 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 senior officers' written representations also identified that Enbridge Inc., the parent company of Enbridge, has in place a *Statement of Business Conduct* which requires an understanding of and compliance with all applicable laws, regulations and other legal and ethical requirements, including the protection of confidentiality of information and compliance with laws related to competition. All parties, including directors, officers, employees, consultants and contractors of Enbridge Inc., and its subsidiaries and controlled entities, are required to comply with the provisions of the *Fair, Efficient and Open Competition Regulation*.

20. A written representation from a senior officer of URICA was filed with the application, which confirms that any records shared with URICA 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 officer of URICA confirmed that URICA has a formal Code of Conduct 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 does business. All of URICA'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. Enbridge advised that it and Tidal have a total offer control of 0.2 per cent and that URICA's total offer control is zero per cent, both 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 Enbridge has demonstrated that (i) the sharing of records with Tidal and URICA is reasonably necessary for Enbridge to carry out its 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 Enbridge, Tidal and URICA 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 Enbridge stating that it does not have adequate personnel, or the resources required to monitor facility operations on a 24-hour basis, and that its subsidiary, Tidal, has the necessary expertise and resources to help manage the efficient output of SET1.
- (b) Written representations from senior officers of Enbridge, Tidal and URICA 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 Enbridge and Tidal confirming that they have a formal system of controls and policies that ensure the information shared with URICA 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 Enbridge Inc., including Enbridge and Tidal, are required to comply with these policies.
- (d) Written representations from URICA that it has a formal system of controls and policies that ensure the information shared with URICA 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 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 Enbridge to share records not available to the public with Tidal and URICA, subject to the following terms and conditions:

- (a) The order applies to the sharing of non-public price, quantity and availability information, between Enbridge, Tidal and URICA, pertaining to SET1, that relates to SET1's participation in the Alberta electricity and ancillary services markets, as described in the application.

- (b) Enbridge, Tidal and URICA must notify the Commission of the termination of the commercial arrangements between Enbridge and URICA as soon as is practicable and within 30 days of the termination of such commercial arrangements.
- (c) Enbridge, Tidal and URICA 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 Enbridge, Tidal or URICA 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 Enbridge, Tidal and URICA.

6 Order

29. Pursuant to the provisions of Section 3 of the *Fair, Efficient and Open Competition Regulation*, the Commission grants the application for the sharing of records set out in the following order granted to Enbridge Pipelines Inc., Tidal Energy Marketing Inc. and URICA Energy Real Time Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records Between Enbridge Pipelines Inc., Tidal Energy Marketing Inc. and URICA Energy Real Time Ltd. – South Edmonton Terminal Power Generation Facility – Order 26819-D02-2021 – September 15, 2021

Dated on September 15, 2021.

Alberta Utilities Commission

(original signed by)

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