



BHE Canada Rattlesnake G.P. Inc.

**Application for an Order Permitting the
Sharing of Records Not Available to the Public
Between BHE Canada Rattlesnake G.P. Inc.,
BHE Canada Rattlesnake L.P. and
URICA Energy Real Time Ltd.**

September 29, 2021

Alberta Utilities Commission

Decision 26838-D01-2021

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Proceeding 26838

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1400, 600 Third Avenue S.W.

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Telephone: 310-4AUC (310-4282) in Alberta

1-833-511-4AUC (1-833-511-4282) outside Alberta

Email: info@auc.ab.ca

Website: www.auc.ab.ca

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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 BHE Canada Rattlesnake G.P. Inc. (BHEC) for the preferential sharing of records that are not available to the public between BHEC, BHE Canada Rattlesnake L.P. (BHEC LP) and URICA Energy Real Time Ltd.

2. As discussed in greater detail below, BHEC 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 ancillary services market under Subsection 3(3) of the *Fair, Efficient and Open Competition Regulation*.

2 Introduction and procedural background

3. On September 2, 2021, BHEC 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 BHEC, BHEC LP and URICA, relating to the Rattlesnake Ridge Wind Power Plant, (asset ID RTL1) located in the Whitley, Alberta area, which consists of 26 Siemens Gamesa SG145 wind turbines, each rated at five megawatts (MW), with a total approved generating capability of 117.6 MW. The power plant will also consist of a 34.5-kilovolt collector system, which will be used solely for collecting electric energy generated by the turbines and transmitting it to the Rattlesnake Ridge 719S Substation. The unit operator plans on the initiation of commissioning and testing of the first wind turbines as early as October 15, 2021.

4. In its application, BHEC indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of BHEC to provide 24-hour real-time dispatch-desk service for operational energy market services, ancillary services, dispatch-down services and energy restatements for events at RTL1. These arrangements will

¹ Application 26838-A001.

make it necessary for BHEC, BHEC LP and URICA to share with each other certain records that are not otherwise available to the public, including energy price, volume pairs and available capability. The agreement between the companies is for services to be provided until the earlier of June 1, 2029, or the termination of the commercial arrangements.

5. The AUC issued notice of the application on September 14, 2021. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to BHEC and the MSA, in accordance with Subsection 3(5) of the *Fair, Efficient and Open Competition Regulation*.

6. On September 14, 2021, the MSA advised the Commission that it supports the application of BHEC and does not require further evidentiary process.

7. The Commission considers the record for this proceeding closed as of September 14, 2021.

8. 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

9. 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 offers 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.

10. 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.

11. 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

12. Neither BHEC nor BHEC LP have the personnel or resources to accept energy or ancillary services dispatch orders on a 24-hour basis to manage the output of RTL1.

13. 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 BHEC.

14. For these reasons, BHEC asserted that the sharing of non-public records relating to the RTL1 is reasonably necessary in order for it to carry out its business regarding the participation of RTL1 in the electricity and ancillary services markets. A written representation from a senior officer of BHEC attesting to the necessity for the sharing of records with URICA was filed with the application.

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

15. As part of the application, BHEC filed a written representation from a senior officer of BHEC and BHEC LP 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*.

16. The senior officer’s written representations also identified that BHEC and BHEC LP have a formal system of controls and policies which ensure that the information shared with URICA will be handled appropriately, including adherence to Section 2 of the *Fair, Efficient and Open Competition Regulation*.

17. Additionally, the written representation confirmed that BHEC and BHEC LP have policies to safeguard information and access to information that is confidential and commercially sensitive, including non-public offer information and the confidential information of companies with which BHEC and BHEC LP do business.

18. 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*.

19. The senior officer of URICA confirmed that URICA has 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 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

20. BHEC advised that BHEC and BHEC LP's total offer control is 0.8 per cent, and that URICA's 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

21. 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.

22. The Commission is satisfied that BHEC has demonstrated that (i) the extension of the existing records sharing order is reasonably necessary for BHEC 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 BHEC 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 BHEC stating that neither it nor BHEC LP have the necessary personnel or resources to accept energy or ancillary services dispatch orders on a 24-hour basis to manage the output of RTL1.
- (b) Written representations from senior officers of BHEC, BHEC LP 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 BHEC and BHEC LP confirming that they have formal systems of controls and policies that ensure the information shared with BHEC and BHEC LP 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*.

(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.

23. 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*.

24. 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."

25. For all of the above reasons, the Commission is prepared to issue an order allowing BHEC and BHEC LP to share records not available to the public with URICA, subject to the following terms and conditions:

(a) The order applies to the sharing of non-public price, quantity and availability information, between BHEC, BHEC LP and URICA, pertaining to RTL1, that may relate to RTL1's participation in the Alberta energy and ancillary services market, as described in the application.

(b) BHEC, BHEC LP and URICA must notify the Commission of the termination of the commercial arrangements between BHEC, BHEC LP and URICA as soon as is practicable and within 30 days of the termination of such commercial arrangements;

(c) BHEC, BHEC LP 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 BHEC, BHEC LP or URICA with the

Fair, Efficient and Open Competition Regulation as soon as is practicable and within 30 days of the material changes.

26. 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 BHEC, BHEC LP and URICA.

6 Order

27. 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 BHE Canada Rattlesnake G.P. Inc., BHE Canada Rattlesnake L.P. and URICA Energy Real Time Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records – Rattlesnake Ridge Wind Power Plant – Order 26838-D02-2021 – September 29, 2021

Dated on September 29, 2021.

Alberta Utilities Commission

(original signed by)

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