



Wheatland Wind Project Ltd.

**Application for an Order Permitting the Sharing
of Records Not Available to the Public Regarding
the Wheatland Wind Power Project**

June 7, 2022

Alberta Utilities Commission

Decision 27379-D01-2022

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Application for an Order Permitting the Sharing
of Records Not Available to the Public Regarding
the Wheatland Wind Power Project

Proceeding 27379

Application 27379-A001

June 7, 2022

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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 Wheatland Wind Project Ltd. (Wheatland) for the preferential sharing of records that are not available to the public between Wheatland, Wheatland Wind Project LP (Wheatland LP), CWP Energy Inc. and URICA Energy Real Time Ltd.

2. As discussed in greater detail below, Wheatland 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 Alberta energy market under subsection 3(3) of the *Fair, Efficient and Open Competition Regulation*.

2 Introduction and procedural background

3. On May 17, 2022, Wheatland filed an application¹ with the AUC pursuant to Section 3 of the *Fair, Efficient and Open Competition Regulation*. The application seeks an order from the Commission permitting the sharing of records not available to the public between Wheatland, Wheatland LP, CWP Energy and URICA. The requested order relates to the Wheatland Wind Power Project (asset ID WHE1), which is located near the town of Drumheller, and will consist of 24 Siemens Gamesa SG 5.0-145 model turbines, each rated at 5 megawatts (MW) with the ability to uprate to 5.2 MW, for a total generating capability of 122.4 MW.

4. Wheatland LP has contracted with CWP Energy, which has developed an expertise in renewable energy and trading physical and financial power in merchant markets, to consider various strategies for WHE1.

5. In its application, Wheatland indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of Wheatland to provide 24-hour real-time dispatch-desk service for operational energy market services and energy restatements for events at WHE1. These arrangements will make it necessary for Wheatland, Wheatland LP, CWP Energy 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.

¹ Application 27379-A001.

6. The AUC issued a notice of the application on May 18, 2022. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to Wheatland and the MSA, in accordance with subsection 3(5) of the *Fair, Efficient and Open Competition Regulation*.

7. On May 26, 2022, the MSA advised the Commission that it supports the application of Wheatland and does not require further evidentiary process.

8. The Commission considers the record for this proceeding closed as of May 26, 2022.

9. The Commission reviewed the entire record in coming to this decision; lack of reference to a matter addressed in evidence or argument does not mean that it was not considered.

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 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.

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. Wheatland does not have an internal 24-hour real-time dispatch desk in order to address events at power producers as required by the independent system operator (ISO) rules. URICA provides this 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 ISO rules and has the necessary expertise and resources to assist Wheatland.

14. For this reason, Wheatland asserted that the sharing of non-public records relating to WHE1 is reasonably necessary in order for it to carry out its business regarding WHE1. Written representations from senior officers of Wheatland, Wheatland LP and CWP Energy, 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

15. As part of the application, written representations from senior officers of Wheatland, Wheatland LP and CWP Energy were filed 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 officers' written representations also identified that Wheatland, Wheatland LP and CWP Energy have formal systems 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 representations from the senior officers of Wheatland and Wheatland LP confirmed that both companies have in place an *Anti-bribery Policy*, a *Conflict of Interest Policy* and a *Confidentiality and Redaction Policy*, which together require all directors, officers, employees and any persons authorized to act on the company's behalf to comply with applicable laws, rules and regulations, including the protection of confidential information.

18. Similarly, the representations from a senior officer of CWP Energy indicated that it has a *Code of Conduct* in the employment contracts of all CWP Energy employees and has in place a *Compliance Manual*, which require all employees and any persons authorized to act on the company's behalf to comply with the law and relevant rules and regulations, including the protection of confidential information.

19. 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*. 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. Wheatland advised that the total offer control of Wheatland, Wheatland LP and affiliated companies is zero per cent, that the total offer control of CWP Energy and affiliated companies

is 0.8 per cent and that URICA's offer control is zero 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

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 Wheatland has demonstrated that (i) the extension of the existing records sharing order is reasonably necessary for Wheatland 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 Wheatland, Wheatland LP, CWP Energy 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 Wheatland stating that it, Wheatland LP and CWP Energy do not have an internal 24-hour real-time dispatch desk in order to address events at power producers as required by the ISO rules.
- (b) Written representations from senior officers of Wheatland, Wheatland LP, CWP Energy 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 operation of the market.
- (c) Written representations from Wheatland, Wheatland LP and CWP Energy confirming that they have formal systems of controls and policies that ensure the information shared with Wheatland, Wheatland LP and CWP Energy 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 employees and others conducting business on behalf of Wheatland, Wheatland LP and CWP Energy are required to comply with these policies.
- (d) Written representations from URICA stating 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 Wheatland, Wheatland LP and CWP Energy 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 Wheatland, Wheatland LP, CWP Energy and URICA, pertaining to WHE1, that may relate to WHE1's participation in the Alberta energy market, as described in the application.
- (b) Wheatland, Wheatland LP, CWP Energy and URICA must notify the Commission of the termination of the commercial arrangements between Wheatland, Wheatland LP, CWP Energy and URICA as soon as is practicable and within 30 days of the termination of such commercial arrangements.
- (c) Wheatland, Wheatland LP, CWP Energy and URICA must notify the Commission of any material changes to the information and continued applicability of any representations included within this application that may affect the compliance of Wheatland, Wheatland LP, CWP Energy 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 Wheatland, Wheatland LP, CWP Energy 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 as set out in the following order granted to Wheatland Wind Project Ltd., Wheatland Wind Project LP, CWP Energy Inc. and URICA Energy Real Time Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records – Wheatland Wind Power Project –
Order 27379-D02-2022

Dated on June 7, 2022.

Alberta Utilities Commission

(original signed by)

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