



AltaLink Management Ltd.

Application for 2022 Debt Issuance

July 12, 2022



Alberta Utilities Commission

Decision 27494-D01-2022

AltaLink Management Ltd.

Application for 2022 Debt Issuance

Proceeding 27494

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1 Introduction

1. On June 29, 2022, AltaLink Management Ltd. (AML), in its capacity as general partner of AltaLink, L.P. (ALP), filed a debt issuance application with the Alberta Utilities Commission requesting the following orders of the Commission:

- An order of the Commission pursuant to Section 101(2)(a)(ii) of the *Public Utilities Act*:
 - (i) authorizing AML to cause ALP to make one or more issues on or prior to December 31, 2022, of up to C\$300 million aggregate principal amount of senior secured notes or other debt securities created and issued under the Master Trust Indenture, having a preferred term to maturity of 10 years or, alternatively, a term to maturity of two, three, five, seven or 30 years, as AML may determine to be appropriate having regard to capital market conditions and other relevant considerations at the time of issuance (“Debt Securities”);
 - (ii) approving the issuances of such Debt Securities as having been made in accordance with law; and
 - (iii) approving the purposes of such Debt Securities.
- An order of the Commission pursuant to Section 101(2)(d)(i) of the *Public Utilities Act*, authorizing AML to cause ALP to grant security to lenders in respect of the Debt Securities, in the form of a first floating charge over the present and future property, assets and undertakings of AML as legal owner and ALP, as beneficial owner.
- Such further and other relief as the Commission may deem just.¹

2. AML is a designated owner of a public utility under the *Public Utilities Designation Regulation*² and is subject to Section 101 of the *Public Utilities Act*, under which:

- AML may not cause ALP to issue bonds or other evidence of indebtedness, payable in more than one year from the date of their issuance, without the approval of the Commission; and
- AML, as legal owner, and ALP, as beneficial owner, may not sell, lease, mortgage or otherwise dispose of or encumber their respective interests in their property, franchises, privileges or rights, or any parts of them, without Commission approval.

¹ Exhibit 27494-X0002, application, paragraph 1.

² Section 1(1)(d).

3. The Commission issued notice of the application on June 30, 2022, which required parties to provide a statement of intent to participate by July 8, 2022. No statements of intent to participate were filed in response to the Commission's notice.

4. The Commission considers the record of this proceeding to have closed on July 8, 2022. 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. For the reasons stated in Section 3 of this decision, the Commission approves AML's application as filed.

2 Regulatory framework

5. In Decision 21555-D01-2016,³ the Commission approved Rule 031,⁴ which provides guidance on the application of a conditional exemption from the requirement to seek advance Commission approval for issuances of equities and long-term debt, and an exemption from certain operational reporting requirements.

6. Section 3 of Rule 031 exempts securities transactions from advance Commission approval if certain criteria are met, including if the issuance requires utility assets to be pledged as security.⁵ Section 3.4 of Rule 031 states:

If an issuance does not qualify for exemption under this rule, the designated owner must seek advance Commission approval for the issuance by way of a formal application filed in accordance with Rule 001: *Rules of Practice*.

7. Accordingly, should the debt or equity issuance not qualify for the exemption under Rule 031, the designated owner must seek approval of its securities transaction pursuant to Section 101(2) of the *Public Utilities Act*, which states:

101(2) No owner of a public utility designated under subsection (1) shall

- (a) issue any
 - (i) of its shares or stock, or
 - (ii) bonds or other evidences of indebtedness, payable in more than one year from the date of them,

unless it has first satisfied the Commission that the proposed issue is to be made in accordance with law and has obtained the approval of the Commission for the purposes of the issue and an order of the Commission authorizing the issue,

...

- (d) without the approval of the Commission,

³ Decision 21555-D01-2016: Conditional Exemption from Specific Financing and Reporting Requirements, Proceeding 21555, December 6, 2016.

⁴ Rule 031: *Conditional Exemption from Specific Financing and Reporting Requirements*.

⁵ Rule 031, Section 3.1(c).

- (i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part of them, or
- (ii) merge or consolidate its property, franchises, privileges or rights, or any part of them, and a sale, lease, mortgage, disposition, encumbrance, merger or consolidation made in contravention of this clause is void, but nothing in this clause shall be construed to prevent in any way the sale, lease, mortgage, disposition, encumbrance, merger or consolidation of any of the property of an owner of a public utility designated under subsection (1) in the ordinary course of the owner's business.

...

8. AML's proposed Debt Securities issuances will be secured by the assets of AML as legal owner and ALP as beneficial owner, and as a result, the application does not meet the requirement of Section 3.1(c) of Rule 031. Accordingly, AML, in its capacity as general partner of ALP, must seek approval of the Commission to issue the Debt Securities, pursuant to Section 101(2) of the *Public Utilities Act*.

3 Should the Commission approve AML's application for debt financing?

9. AML submitted that proceeds from the issue and sale of the Debt Securities are to be used for a number of purposes, including:

- to facilitate the repayment or refinancing, in whole or in part, of indebtedness in connection with outstanding medium-term notes or other bonds, including without limitation indebtedness under the C\$275 million aggregate principal amount of 2.978 per cent Series 2012-2 Medium-Term Notes maturing on November 28, 2022, or outstanding commercial paper;
- to fund, directly or indirectly, the growth and expansion of AML's electricity transmission network in Alberta, in respect of ongoing operations; and
- general corporate purposes.⁶

10. AML, along with its financial advisors, developed a financing structure referred to as the "Capital Markets Platform." The Capital Markets Platform is capable of accommodating a variety of debt instruments and borrowings, including term bank debt, revolving bank lines of credit, publicly issued and privately placed term-debt securities (senior and subordinated), banker's acceptances, commercial paper and medium-term notes, interest-rate and currency swaps, and other hedging instruments. The terms and conditions of the Capital Markets Platform were included in the Master Trust Indenture between ALP, AML and BNY Trust Company of Canada as trustee, amended as restated as of April 28, 2003.⁷ A copy of the Master Trust Indenture is included in Appendix B⁸ of the application.

11. AML submitted that the debt issuance will be made on a private placement basis, relying on available exemptions from prospectus requirements for such distributions (a Note Private

⁶ Exhibit 27494-X0002, application, paragraphs 15-16.

⁷ Exhibit 27494-X0002, application, paragraphs 3-4.

⁸ Exhibit 27494-X0002, application, Appendix B.

Placement). AML explained that the Debt Securities issued and sold under a Note Private Placement are to be distributed through a person or company registered as an “investment dealer” within the meaning under National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* of the Canadian Securities Administrators (Dealer). AML noted that ALP will appoint a syndicate of Dealers in connection with the debt issuance.⁹

12. AML advised it will cause ALP and the Dealers in connection with the debt issuance to prepare and deliver to prospective buyers of the Debt Securities, an “Accredited Investor Term Sheet,” which is intended to be in the same form as the “Preliminary Accredited Investor Term Sheet,” included in Appendix C¹⁰ of the application. AML explained that the Accredited Investor Term Sheet would contain updates, additional information or disclosure, revisions, modifications or other changes as AML, ALP and applicable Dealers consider necessary, and it would also be delivered to applicable securities regulatory authorities to the extent required. AML undertook to file with the Commission any Accredited Investor Term Sheet prepared in connection with any distribution of the Debt Securities, to be completed prior to December 31, 2022.¹¹

13. AML submitted that it will determine the amount, issuance date and term of each issue of the Debt Securities having regard to various factors, including but not limited to the actual amount of ALP debt outstanding at the time, prevailing capital market conditions and the relative pricing of various maturities.¹² AML indicated that the 10-year term senior, secured notes or other debt securities might be substituted for two, three, five, seven or 30-year term senior secured notes or other debt securities. Therefore, AML requested that in approving the issue and sale of the Debt Securities on the basis contemplated in paragraphs 1(A)(i) and 21(A)(i) of the application, the Commission approve the substitution of any or all of the 10-year term Debt Securities with two, three, five, seven or 30-year term Debt Securities.¹³

14. AML submitted that it expects to maintain its current credit ratings with both DBRS Limited (DBRS) and Standard & Poor’s Global Ratings, Inc. (S&P). A copy of DBRS’ Rating Report dated October 29, 2021,¹⁴ confirmed an A rating with a stable trend for ALP and an A rating with a stable trend for ALP’s senior secured notes and medium-term notes.¹⁵ Furthermore, a copy of S&P’s Ratings Report dated May 9, 2022,¹⁶ confirmed an A rating with a stable trend for ALP and an A rating with a stable trend for ALP’s senior secured notes and medium-term notes.¹⁷

15. AML stated that the requested orders within the application would not bind, affect or prejudice the Commission in consideration of any matter or question relating to the cost of capital associated with the Debt Securities.¹⁸

⁹ Exhibit 27494-X0002, application, paragraph 5.

¹⁰ Exhibit 27494-X0002, application, Appendix C.

¹¹ Exhibit 27494-X0002, application, paragraph 6.

¹² Indicative terms of issue for 10-year Debt Securities are set out in Exhibit 27494-X0002, application, Appendix A, PDF page 7.

¹³ Exhibit 27494-X0002, application, paragraphs 18-19.

¹⁴ Exhibit 27494-X0002, application, Appendix D.

¹⁵ Exhibit 27494-X0002, application, paragraphs 8-9.

¹⁶ Exhibit 27494-X0002, application, Appendix E.

¹⁷ Exhibit 27494-X0002, application, paragraph 10.

¹⁸ Exhibit 27494-X0002, application, paragraph 17.

16. AML submitted that the proposed debt issuance will be made in accordance with law as required by Section 101(2)(a)(ii) of the *Public Utilities Act*, and included a legal opinion from Borden Ladner Gervais LLP.¹⁹

17. Section 101(2)(a)(ii) of the *Public Utilities Act* requires that the Commission determine (a) whether the proposed issuance is to be made in accordance with law; and (b) whether the Commission is satisfied regarding the purposes of the proposed debt issuance described in the application.

18. In ascertaining whether a proposed issuance of debt will be made in accordance with applicable laws, the Commission focuses primarily on whether the proposed issuance meets the corporate and securities law requirements applicable to such transactions. The Commission typically requests, and relies upon, the opinion of the applicant's legal counsel to confirm that the utility is duly authorized by its directors to undertake the issuance of the proposed securities, and that the form and content of the securities issuance is in compliance with applicable laws. Based on the opinion provided by AML's legal counsel, Borden Ladner Gervais LLP, dated June 29, 2022, the Commission is satisfied that due diligence is being exercised and steps have been taken to ensure that the issuance will be made in accordance with law.

19. The Commission is also satisfied with the level of detail provided in the application to support the purposes of the issuances and accepts AML's submitted purposes of the Debt Securities issuances.

20. Section 101(2)(d)(i) of the *Public Utilities Act* requires AML to receive approval from the Commission to encumber its property, franchises, privileges or rights, or any part of them. As detailed in its "Preliminary Term Sheet," assets are pledged as security to AML's planned debt issuance, in the form of a first floating charge security interest over the present and future property, assets and undertaking of AML, as legal owner, and ALP, as beneficial owner.²⁰

21. In a letter submitted in Proceeding 21555, AML stated that "AltaLink does not plan to issue unsecured debt or bank credit facilities due to secured debt attracting investors and decreasing the costs of borrowing as compared to unsecured debt. This allows AltaLink to ensure it passes on just and reasonable rates to the ratepayer."²¹

22. AML submitted that continuing to fund long-lived assets with the long-term Debt Securities that diversify the maturity profile of such securities over the expected life of such assets is in the best interests of the ratepayers.²²

23. For the purposes of this application, the Commission finds the rationale to issue secured debt to be reasonable. The credit rating related information provided by AML with the application is satisfactory for the purposes of the present application and provides reasonable assurance that the proposed issuance of the Debt Securities should not have a material adverse effect on the cost of other debt recovered through AML's revenue requirement.

¹⁹ Exhibit 27494-X0002, application, Appendix F.

²⁰ Exhibit 27494-X0002, application, paragraph 12, and Appendix C, PDF page 107.

²¹ Proceeding 21555, Conditional Exemption from Specific Financing and Reporting Requirements, Exhibit 21555-X0026, AML Letter to AUC - Submission on Revised Draft Rule, August 30, 2016, PDF page 1.

²² Exhibit 27494-X0002, application, paragraph 7.

24. The Commission is also satisfied that the proposed debt issuance is required for the purposes of financing assets or activities for the operation of the public utility and is, therefore, in the public interest.

25. Given the above, the Commission finds that AML has complied with the requirements of Section 101(2)(a)(ii) and has suitable justification to pledge assets as security to the planned debt issuance for Section 101(2)(d)(i) of the *Public Utilities Act*. Accordingly, the Commission approves AML's 2022 debt issuance application as filed.

26. The Commission retains its ability to exercise its regulatory oversight and to review the prudence of the Debt Securities issuances during its consideration of any general tariff application, other proceeding or as part of the Commission's review of the affairs, earnings and accounts of AML in the absence of a general tariff application.

Post-disposition undertakings by AML

27. In its application, AML undertook to submit the following:

- (i) Any Accredited Investor Term Sheet prepared in connection with any distribution of the Debt Securities, to be completed prior to December 31, 2022.²³
- (ii) A copy of any new DBRS rating report in respect of ALP, issued by this credit rating agency prior to the issuance of any of the Debt Securities.²⁴
- (iii) A copy of any new S&P ratings report in respect of ALP or ALP's senior, secured obligations, issued by this credit rating agency prior to the issuance of any of the Debt Securities.²⁵
- (iv) A resolution of the AML board of directors, following each issuance of the Debt Securities, authorizing such issuance.²⁶

28. AML is directed to submit onto the record of this proceeding, as a post-disposition filing, the documents listed in paragraph 27 above, within one month after they are received.

4 Order

29. It is hereby ordered that:

- (1) Pursuant to Section 101(2)(a)(ii) of the *Public Utilities Act*:
 - (i) The Commission authorizes AltaLink Management Ltd. to cause AltaLink, L.P., to make one or more issues prior to December 31, 2022, of up to C\$300 million aggregate principal amount of Debt Securities, having a preferred term to maturity of 10 years or, alternatively, a term to maturity of two, three, five, seven or 30 years, as AltaLink Management Ltd. may

²³ Exhibit 27494-X0002, application, paragraph 6.

²⁴ Exhibit 27494-X0002, application, paragraph 9.

²⁵ Exhibit 27494-X0002, application, paragraph 10.

²⁶ Exhibit 27494-X0002, application, paragraph 13.

determine to be appropriate having regard to capital market conditions and other relevant considerations at the time of issuance.

- (ii) The Commission approves the issuances of the Debt Securities as having been made in accordance with law.
 - (iii) The Commission approves the purposes of such Debt Securities.
- (2) Pursuant to Section 101(2)(d)(i) of the *Public Utilities Act*, the Commission authorizes AltaLink Management Ltd. to cause AltaLink, L.P., to grant security to lenders in respect of the Debt Securities, in the form of a first floating charge over the present and future property, assets and undertakings of AltaLink Management Ltd. as legal owner and AltaLink, L.P., as beneficial owner.

Dated on July 12, 2022.

Alberta Utilities Commission

(original signed by)

Vincent Kostas
Acting Commission Member

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
AltaLink Management Ltd. (AltaLink)

Alberta Utilities Commission
Commission panel V. Kostaskey, Acting Commission Member
Commission staff P. Schembri (Commission counsel) F. Alonso E. Davis

Appendix 2 – Summary of Commission directions

This section is provided for the convenience of readers. In the event of any difference between the directions in this section and those in the main body of the decision, the wording in the main body of the decision shall prevail.

1. AML is directed to submit onto the record of this proceeding, as a post-disposition filing, the documents listed in paragraph 27 above, within one month after they are received.
..... paragraph 28