



Oldman 2 Wind Farm Limited

**Application for an Order Permitting the Sharing
of Records Not Available to the Public
Regarding the Oldman 2 Wind Farm
and Wintering Hills Wind Power Plant**

August 23, 2022

Alberta Utilities Commission

Decision 27537-D01-2022

Oldman 2 Wind Farm Limited

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Proceeding 27537

Application 27537-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 Oldman 2 Wind Farm Limited (Oldman 2) for the preferential sharing of records that are not available to the public between Oldman 2, Exus North American Canada Inc. (Exus) and URICA Energy Real Time Ltd. (URICA)

2. As discussed in greater detail below, Oldman 2 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 Section 3(3) of the *Fair, Efficient and Open Competition Regulation*.

2 Introduction and procedural background

3. On July 22, 2022, Oldman 2 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 Oldman 2, Exus and URICA. The requested order relates to the Oldman 2 Wind Farm (asset ID OWF1) and the Wintering Hills Wind Power Plant (asset ID SCR4). OWF1 is located near the town of Pincher Creek and consists of 20 wind turbines with a total generating capability of 46 megawatts (MW). SCR4 is located near the town of Drumheller and consists of 55 wind turbines with a total generating capability of 88 MW.

4. Exus has expertise and knowledge of the wind-farm business and offers operations and monitoring management services related to wind farms, including technical and commercial management, surveillance and control as well as site management, performance analysis and reporting. Because of these services, Oldman 2 has entered into commercial arrangements with Exus.

5. In its application, Oldman 2 indicated that it has also entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of Oldman 2 to provide 24-hour real-time dispatch-desk service for operational energy market services and

¹ Application 27537-A001.

energy restatements for events at OWF1 and SCR4. These arrangements will make it necessary for Oldman 2, Exus 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 from October 1, 2022, until the earlier of June 1, 2029, or the termination of the commercial arrangements.

6. The AUC issued a notice of the application on July 27, 2022. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to Oldman 2, Exus and the MSA, in accordance with Section 3(5) of the *Fair, Efficient and Open Competition Regulation*.

7. On July 27, 2022, the MSA advised the Commission that it supports the application of Oldman 2 and does not require further evidentiary process.

8. The Commission considers the record for this proceeding closed as of July 27, 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. Section 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. Section 3(2) establishes instances where records that are not available to the public may be shared. Section 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. Section 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. Oldman 2 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 Oldman 2.

14. For this reason, Oldman 2 asserted that the sharing of non-public records relating to OWF1 and SCR4 is reasonably necessary in order for it to carry out its business regarding OWF1 and SCR4. Written representations from senior officers of Oldman 2 and Exus, 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 Oldman 2 and Exus 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 Oldman 2 and Exus both 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 from the senior officer of Oldman 2 confirmed that it has in place a *Code of Conduct* which requires all employees and contractors of the company to comply with the law and relevant rules and regulations, including the protection of confidentiality of information.

18. Similarly, the written representation from the senior officer of Exus confirmed that it has in place a *Code of Conduct* and *Exus Compliance Policies* which require employees, board members, investors, contractors and volunteers of the company 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 confirm 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 confirmed that the companies both 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 does business. All of URICA's employees, officers and affiliates are required to acknowledge and comply with the compliance

plan and program and with the *Fair, Efficient and Open Competition Regulation*. Access to secured information is strictly controlled and monitored.

4.3 Offer control

20. Oldman 2 advised that the total offer control of Oldman 2, Exus and affiliated companies is 0.8 per cent, and that the total offer control of URICA is zero per cent, both of which are less than the offer-control limit of 30 per cent, as set out in Section 5(5) of the *Fair, Efficient and Open Competition Regulation*.

5 Commission findings

21. Section 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 Oldman 2 has demonstrated that (i) the sharing of records with URICA is reasonably necessary for Oldman 2 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 Oldman 2, Exus 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 Oldman 2 stating that it does 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 Oldman 2, Exus 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 markets.
- (c) Written representations from Oldman 2 and Exus confirming that they have formal systems of controls and policies that ensure the information shared with Oldman 2 and Exus 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 Oldman 2 and Exus 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 Section 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 Section 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 Oldman 2 to share records not available to the public with Exus 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 Oldman 2 Wind Farm Limited, Exus North American Canada Inc. and URICA Energy Real Time Ltd., pertaining to OWF1 and SCR4, that may relate to OWF1 and SCR4's participation in the Alberta energy market, as described in the application.
- (b) Oldman 2 Wind Farm Limited, Exus North American Canada Inc. and URICA Energy Real Time Ltd. must notify the Commission of the termination of the commercial arrangements between Oldman 2 Wind Farm Limited, Exus and URICA Energy Real Time Ltd. as soon as is practicable and within 30 days of the termination of such commercial arrangements.
- (c) Oldman 2 Wind Farm Limited, Exus North American Canada Inc. and URICA Energy Real Time Ltd. 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 Oldman 2 Wind Farm Limited, Exus North American Canada Inc. or URICA Energy Real Time Ltd. 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 Oldman 2 Wind Farm Limited, Exus North American Canada Inc. and URICA Energy Real Time Ltd.

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 orders granted to Oldman 2 Wind Farm Limited, Exus North American Canada Inc. and URICA Energy Real Time Ltd., which are separate dispositions in this proceeding:

- (1) Preferential Sharing of Records – Oldman 2 Wind Farm –
Order 27537-D02-2022
- (2) Preferential Sharing of Records – Wintering Hills Wind Power Plant –
Order 27537-D03-2022

Dated on August 23, 2022.

Alberta Utilities Commission

(original signed by)

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