



Balancing Pool

**Application for an Order Permitting the
Sharing of Records Not Available to the
Public Regarding the Drumheller Solar
and Battery Storage Project**

January 31, 2023

Alberta Utilities Commission

Decision 27937-D01-2023

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Application for an Order Permitting the
Sharing of Records Not Available to the
Public Regarding the Drumheller Solar
and Battery Storage Project

Proceeding 27937

Application 27937-A001

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Eau Claire Tower
1400, 600 Third Avenue S.W.
Calgary, Alberta T2P 0G5

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 the Balancing Pool for the preferential sharing of records that are not available to the public between the Balancing Pool, Concord Drumheller GP2 Ltd. (Concord Drumheller GP), Concord Drumheller Partnership and URICA Energy Real Time Ltd.

2. As discussed in greater detail below, the Balancing Pool 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 electricity market under Section 3(3) of the *Fair, Efficient and Open Competition Regulation*.

2 Introduction and procedural background

3. On January 9, 2023, the Balancing Pool 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 the Balancing Pool (acting in its capacity on behalf of a small-scale power producer, as described in Section 7 of the *Small Scale Generation Regulation*), Concord Drumheller GP, Concord Drumheller Partnership and URICA. The requested order relates to the Drumheller Solar and Battery Storage Project (asset ID MCH1), which has a maximum capability of 13.5 megawatts.

4. Section 7 of the *Small Scale Generation Regulation* states that “unless...request[ed] otherwise, the Balancing Pool (a) must act as the electricity market participant on behalf of the small scale power producer in dealings with the independent system operator (ISO) in respect of the electric energy supplied by the small scale power producer’s small scale generating unit.” Concord Drumheller GP qualifies as a small-scale power producer and is therefore represented as an electricity market participant by the Balancing Pool.

5. In its application, the Balancing Pool indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of the Balancing Pool to provide 24-hour real-time dispatch-desk service for operational electric energy-market services and electric energy restatements for events at MCH1. These arrangements will make it necessary for the Balancing Pool, Concord Drumheller GP, Concord

¹ Application 27937-A001.

Drumheller Partnership and URICA to share with each other certain records that are not otherwise available to the public, including operational and dispatch information, electric energy price and volume pairs, financial settlement and outage information 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.

6. The AUC issued a notice of the application on January 12, 2023. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to the Balancing Pool and the MSA, in accordance with Section 3(5) of the *Fair, Efficient and Open Competition Regulation*.

7. On January 23, 2023, the MSA advised the Commission that it supports the application of the Balancing Pool and does not require further evidentiary process.

8. The Commission considers the record for this proceeding closed as of January 23, 2023.

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. 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. The Balancing Pool 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. URICA provides this dispatch-desk service to clients for operational electric 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 the Balancing Pool.

14. For this reason, the Balancing Pool asserted that the sharing of non-public records relating to MCH1 is reasonably necessary in order for it to carry out its business regarding MCH1. Written representations from senior officers of the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 officer of the Balancing Pool confirmed that the Balancing Pool has in place a *Code of Conduct for Directors and Officers* and a *Code of Conduct for Employees*, which require all directors, officers and employees to comply with applicable laws, rules and regulations, including the protection of confidential information.

18. Similarly, the representations from senior officers of Concord Drumheller GP and Concord Drumheller Partnership indicated that they have in place a *Code of Business Conduct and Ethics Policy* and a *Confidentiality Agreement*, which require all officers, employees, consultants, contractors and directors of the companies 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. The Balancing Pool advised that the Balancing Pool's total offer control is zero per cent, that the total offer control of Concord Drumheller GP and Concord Drumheller Partnership is 0.6 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 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 the Balancing Pool has demonstrated that (i) the sharing of records with URICA is reasonably necessary for the Balancing Pool 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 the Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership 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 the Balancing Pool 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 the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership confirming that they have formal systems of controls and policies that ensure the information shared with the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP and Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership and URICA, pertaining to MCH1, that may relate to MCH1's participation in the Alberta electricity market, as described in the application.
- (b) The Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership and URICA must notify the Commission of the termination of the commercial arrangements between the Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership and URICA as soon as is practicable and within 30 days of the termination of such commercial arrangements.
- (c) The Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP, Concord Drumheller Partnership 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 the Balancing Pool, Concord Drumheller GP2 Ltd., Concord Drumheller Partnership and URICA Energy Real Time Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records – Drumheller Solar and Battery Storage Project – Order 27937-D02-2023

Dated on January 31, 2023.

Alberta Utilities Commission

(original signed by)

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