



Subra GP Ltd.

**Application for an Order Permitting the Sharing
of Records Not Available to the Public Regarding
the Fox Coulee Solar Project**

June 14, 2023

Alberta Utilities Commission

Decision 28230-D01-2023

Subra GP Ltd.

Application for an Order Permitting the Sharing
of Records Not Available to the Public Regarding
the Fox Coulee Solar Project

Proceeding 28230

Application 28230-A001

June 14, 2023

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Contents

1 Decision summary 1

2 Introduction and procedural background..... 1

3 The Commission’s authority to allow record sharing..... 2

4 Submissions of the applicant 2

4.1 Is the proposed sharing of records reasonably necessary 2

4.2 Fair, efficient and openly competitive operation of the electricity market..... 3

4.3 Offer control..... 3

5 Commission findings 4

6 Order..... 5

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 Subra GP Ltd. (Subra GP) for the preferential sharing of records that are not available to the public between Subra GP, Subra Limited Partnership (Subra LP), Neoen Renewables Canada Inc. (Neoen) and URICA Energy Real Time Ltd.

2. As discussed in greater detail below, Subra 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 May 29, 2023, Subra GP 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 Subra GP, Subra LP, Neoen and URICA. The requested order relates to the Fox Coulee Solar Project (asset ID FCS1), which will be located near the town of Drumheller and will consist of 171,575 Astro 5 Twins F-BH solar panels and 18 SMA MVPS 4600 inverters, for a total generating capability of approximately 75 megawatts.

4. Neoen has a services agreement to support both Subra GP and Subra LP regarding FCS1.

5. In its application, Subra GP indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of Subra GP to provide 24-hour real-time dispatch-desk service for operational energy market services and energy restatements for events at FCS1. These arrangements will make it necessary for Subra GP, Subra LP, Neoen 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 28230-A001.

6. The AUC issued a notice of the application on May 31, 2023. In the notice, the Commission advised that the parties granted standing in the proceeding were limited to Subra and the MSA, in accordance with Section 3(5) of the *Fair, Efficient and Open Competition Regulation*.

7. On June 9, 2023, the MSA advised the Commission that it supports the application of Subra GP and does not require further evidentiary process.

8. The Commission considers the record for this proceeding closed as of June 9, 2023.

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. Subra GP, Subra LP, and Neoen do 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 Subra GP.

14. For this reason, Subra GP asserted that the sharing of non-public records relating to FCS1 is reasonably necessary in order for it to carry out its business regarding FCS1. Written representations from senior officers of Subra GP, Subra LP and Neoen, 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 Subra GP, Subra LP and Neoen 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 Subra GP, Subra LP and Neoen 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 Subra GP, Subra LP, and Neoen confirmed that all three companies have in place a *Code of Conduct* relating to compliance with all laws, rules, and regulations, and pertaining to the confidentiality of information, which all employees and representatives must comply with. The *Code of Conduct* is in alignment with the *Fair, Efficient and Open Competition Regulation*, and any confidential information held by the three companies is distributed and available only to those who are authorized and required to use the information.

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*. 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

19. Subra advised that the total offer control of Subra GP, Subra LP, Neoen and affiliated companies is 0.5 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 Section 5(5) of the *Fair, Efficient and Open Competition Regulation*.

5 Commission findings

20. 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.

21. The Commission is satisfied that Subra GP has demonstrated that (i) the records sharing order is reasonably necessary for Subra GP 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 Subra GP, Subra LP, Neoen 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 Subra GP stating that it, Subra LP and Neoen 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 Subra GP, Subra LP, Neoen 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 Subra GP, Subra LP and Neoen confirming that they have formal systems of controls and policies that ensure the information shared with Subra GP, Subra LP and Neoen 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 Subra GP, Subra LP and Neoen 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.

22. 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*.

23. 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.”

24. For all of the above reasons, the Commission is prepared to issue an order allowing Subra GP, Subra LP and Neoen 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 Subra GP, Subra LP, Neoen and URICA, pertaining to FCS1, that may relate to FCS1’s participation in the Alberta energy market, as described in the application.
- (b) Subra GP, Subra LP, Neoen and URICA must notify the Commission of the termination of the commercial arrangements between Subra GP, Subra LP, Neoen and URICA as soon as is practicable and within 30 days of the termination of such commercial arrangements.
- (c) Subra GP, Subra LP, Neoen 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 Subra GP, Subra LP, Neoen or URICA with the *Fair, Efficient and Open Competition Regulation* as soon as is practicable and within 30 days of the material changes.

25. 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 Subra GP, Subra LP, Neoen and URICA.

6 Order

26. 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 Subra GP Ltd., Subra Limited Partnership, Neoen Renewables Canada Inc. and URICA Energy Real Time Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records – Fox Coulee Solar Project –
Order 28230-D02-2023

Dated on June 14, 2023.

Alberta Utilities Commission

(original signed by)

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