



**TransAlta Corporation, as Manager of the  
TransAlta Generation Partnership**

**Application Concerning Arbitration Award for  
AltaLink Management Ltd. to Perform its Obligations  
Under the Operations and Maintenance Agreement**

**October 19, 2023**

**Alberta Utilities Commission**

Decision 28467-D01-2023

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Obligations Under the Operations and Maintenance Agreement  
Proceeding 28467

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The Commission may, no later than 60 days from the date of this decision and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision on its website.

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**TransAlta Corporation**  
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**1 Decision summary**

1. In this decision, the Alberta Utilities Commission rescinds an interim order directing AltaLink Management Ltd. to continue to perform its obligations set out in an Operations and Maintenance Agreement (the O&M Agreement) dated April 29, 2002, between it and TransAlta Corporation as the outcome of arbitration has been determined, and the interim order is no longer required.

**2 Background and application process**

2. In 2001, TransAlta sold the entirety of its transmission business and assets to AltaLink, with the exception of certain assets located on 13 First Nations lands in areas south of Edmonton (the Withheld Assets). The Withheld Assets are still owned by TransAlta.

3. TransAlta and AltaLink entered into the O&M Agreement, wherein AltaLink has performed services in connection with TransAlta's operation of the Withheld Assets, such as inspection, repair, maintenance, reclamation, capital projects and administrative services (the services) since April 29, 2002.

4. On December 14, 2020, AltaLink provided a notice of termination to TransAlta, indicating it would cease providing the services as of April 29, 2022, the date when the initial term of the O&M Agreement expires. TransAlta opposed the termination and following unsuccessful negotiations between the parties, TransAlta commenced arbitration.

5. In Decision 27168-D01-2022,<sup>1</sup> the Commission granted TransAlta an interim order directing AltaLink to continue to perform its obligations set out in the O&M Agreement until the outcome of arbitration was determined. TransAlta was also directed to file an application with the Commission within seven days of receipt of the arbitration decision confirming that it either seeks continuation of the interim order or that the interim relief is no longer required.<sup>2</sup>

6. On September 13, 2023, TransAlta filed its application in response to the Commission's direction confirming that on September 7, 2023, the arbitration tribunal concluded that the O&M Agreement is perpetual in nature and does not contain an implied term allowing for termination on reasonable notice by AltaLink at the end of the initial term or any renewal term thereof. On this basis, the arbitration tribunal declared that AltaLink's notice of termination of the O&M

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<sup>1</sup> Decision 27168-D01-2022: TransAlta Corporation, as Manager of the TransAlta Generation Partnership, Application for Interim Order Directing AltaLink Management Ltd. to Perform its Obligations under the Operations and Maintenance Agreement, Proceeding 27168, March 18, 2022.

<sup>2</sup> Decision 27168-D01-2022, paragraph 23.

Agreement is invalid and the O&M Agreement remains in full force and effect.<sup>3</sup> Accordingly, TransAlta advised that the interim relief granted by the Commission in Decision 27168-D01-2022 is no longer required.

7. The Commission issued a notice of application requiring interested parties to submit, within 10 days, a statement of intent to participate (SIP). No SIPs were received and the record closed on September 27, 2023.

### **3 Should the Commission rescind TransAlta's interim order?**

8. The Commission rescinds its interim order in Decision 27168-D01-2022 directing AltaLink to continue to perform its obligations set out in the O&M Agreement. The arbitration tribunal awarded the declaration sought by TransAlta that the notice of termination of the O&M Agreement delivered by AltaLink is invalid and that the O&M Agreement remains in full force and effect. Further, during the arbitration proceeding, AltaLink committed to continue to perform its obligations under the O&M Agreement in the event the arbitration panel rules in favour of TransAlta. For these reasons, the interim order is no longer required. This determination is without prejudice to TransAlta's ability to seek further relief from the Commission should circumstances change.

### **4 Order**

9. It is hereby ordered that:

- (1) TransAlta Corporation's interim order directing AltaLink Management Ltd. to continue to perform its obligations set out in the Operations and Maintenance Agreement is rescinded as the outcome of the arbitration process has been determined and the interim order is no longer required.

Dated on October 19, 2023.

**Alberta Utilities Commission**

*(original signed by)*

Vera Slawinski  
Commission Member

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<sup>3</sup> Exhibit 28467-X0002, application, paragraphs 2 and 9.

## Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
TransAlta Corporation (TransAlta) Osler, Hoskin & Harcourt LLP

Alberta Utilities Commission
Commission panel V. Slawinski, Commission Member
Commission staff R. Watson (Commission counsel) P. Baker R. Cassidy