



## **NuVista Energy Ltd.**

**Application for an Order Permitting the Sharing  
of Records Not Available to the Public Regarding  
the Wembley Thermal Power Plant**

**November 29, 2023**

**Alberta Utilities Commission**

Decision 28571-D01-2023

NuVista Energy Ltd.

Application for an Order Permitting the Sharing  
of Records Not Available to the Public Regarding  
the Wembley Thermal Power Plant

Proceeding 28571

Application 28571-A001

November 29, 2023

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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 NuVista Energy Ltd., for the preferential sharing of records that are not available to the public between NuVista and URICA Energy Real Time Ltd.

2. As discussed in greater detail below, NuVista 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 November 1, 2023, NuVista filed an application<sup>1</sup> 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 NuVista and URICA. The requested order relates to the Wembley Thermal Power Plant (asset ID WEM1), which is located in the town of Wembley and consists of one Solar Titan 130 natural-gas-fired turbine with a total generating capability of 16.5 megawatts.

4. In its application, NuVista indicated that it has entered into commercial arrangements with URICA, which, among other things, appoint URICA as an agent of NuVista to provide 24-hour real-time dispatch-desk service for operational energy market services and energy restatements for events at WEM1. These arrangements will make it necessary for NuVista and URICA to share with each other certain records that are not otherwise available to the public, including energy price and 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.

5. The AUC issued a notice of the application on November 21, 2023. In the notice, in accordance with Section 3(5) of the *Fair, Efficient and Open Competition Regulation*, the Commission advised that the parties granted standing in the proceeding were limited to NuVista and the MSA,.

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<sup>1</sup> Application 28571-A001.

6. On November 22, 2023, the MSA advised the Commission that it supports the application of NuVista and does not require further evidentiary process.

7. The Commission considers the record for this proceeding closed as of November 22, 2023.

8. 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**

9. 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.

10. 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.

11. 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**

12. NuVista 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.

13. URICA provides 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 NuVista.

14. For this reason, NuVista asserted that the sharing of non-public records relating to WEM1 is reasonably necessary in order for it to carry out its business regarding WEM1. A written representation from a senior officer of NuVista, attesting to the necessity for the sharing of records with URICA, was filed with the application.

#### **4.2 Fair, efficient and openly competitive operation of the electricity market**

15. As part of the application, a written representation from a senior officer of NuVista was 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 officer's written representation also identified that NuVista has 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 representation from the senior officer of NuVista confirmed that the company has in place a *Code of Business Conduct and Ethics* and a *Disclosure Policy*, both of which require all employees and other persons conducting business on behalf of NuVista to comply with the law and relevant rules and regulations, including the protection of confidential 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*.

19. 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. NuVista advised that the total offer control of NuVista and affiliated companies is 0.1 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 NuVista has demonstrated that (i) the records sharing order is reasonably necessary for NuVista 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 NuVista 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 NuVista 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 NuVista 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 representation from NuVista confirming that they have formal systems of controls and policies that ensure the information shared with NuVista 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 NuVista are required to comply with these policies.
- (d) Written representations from URICA stating that they have 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 NuVista 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 NuVista and URICA, pertaining to WEM1, that may relate to WEM1’s participation in the Alberta electricity market, as described in the application.
- (b) NuVista and URICA must notify the Commission of the termination of the commercial arrangements between NuVista and URICA as soon as is practicable and within 30 days of the termination of such commercial arrangements.
- (c) NuVista 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 NuVista 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 NuVista and URICA.

## 6 Order

27. The Commission grants the application for the sharing of records, pursuant to the provisions of Section 3 of the *Fair, Efficient and Open Competition Regulation*, as set out in the following order granted to NuVista Energy Ltd. and URICA Energy Real Time Ltd., which is a separate disposition in this proceeding:

- (1) Preferential Sharing of Records – Wembley Thermal Power Plant –  
Order 28571-D02-2023

Dated on November 29, 2023.

### Alberta Utilities Commission

*(original signed by)*

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