



Oldman 2 Wind Farm Limited

Application for an Order Permitting the Sharing of Records
Not Available to the Public Between Oldman 2 Wind Farm
Limited and Apex Wind Asset Management, LLC

October 11, 2017

Alberta Utilities Commission

Decision 22862-D04-2017

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Oldman 2 Wind Farm Limited and Apex Wind Asset Management, LLC

Proceeding 22862

Application 22862-A001

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Published by the:

Alberta Utilities Commission

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1 Calgary, Alberta Decision summary

1. In this decision, the Alberta Utilities Commission must decide whether to approve an application by Oldman 2 Wind Farm Limited (Oldman), for the preferential sharing of records that are not available to the public with Apex Wind Asset Management, LLC (Apex). The application was brought under Section 3 of the *Fair, Efficient and Open Competition Regulation*. The Market Surveillance Administrator (MSA) has supported the application.

2. For the reasons that follow, the Commission has decided to grant the application because Oldman has demonstrated that the sharing of records is reasonably necessary for Oldman to carry out its business, and that the shared records would not be used for any purpose that will not support the fair, efficient and openly competitive operation of the electricity market.

2 Introduction and background

3. In its application,¹ Oldman submitted that the information sharing would be with respect to its 46-megawatt (MW) Oldman 2 Wind Farm (Oldman 2) and its 88-MW Wintering Hills Wind Farm (Wintering Hills). Oldman is the owner of both Oldman 2 and Wintering Hills.²

4. In its application, Oldman submits that Apex is an independent renewable energy company that can provide remote operational services at Oldman 2 and Wintering Hills to manage the bid and offer submissions of the two wind farms on a 24-hour basis. Apex will act as Oldman's agent in responding to energy and ancillary services dispatches and directives for Oldman 2 and Wintering Hills.³ Prior to the filing of this application Oldman was responsible for submitting bids and offers for Oldman 2 and Wintering Hills into the power pool.⁴

5. Oldman filed its application to preferentially share records relating to Oldman 2 and Wintering Hills that are not available to the public, with Apex, on August 8, 2017. Oldman requested that the term for the order be from August 31, 2017 to June 30, 2022.⁵

6. The Commission issued notice of the application on August 10, 2017. The notice specified that the only parties with standing in the proceeding were Oldman and the MSA, and

¹ Application 22862-A001.

² Exhibit 22862-X0002, Preferential sharing of records application, registered August 8, 2017, page 4, paragraph 14.

³ Ibid., page 3, paragraph 7.

⁴ Ibid., page 5, paragraphs 19 and 21.

⁵ Ibid., page 3, paragraph 5.

established a process and schedule for the MSA to determine whether it would intervene in the proceeding, and to advise the Commission whether it required an evidentiary process.⁶

7. On August 15, 2017, the MSA advised the Commission that it supported the application and did not require further evidentiary process.⁷

8. On August 30, 2017, the Commission issued an interim order permitting the requested sharing of records between Oldman 2 Wind Farm Limited and Apex Wind Asset Management, LLC in accordance with the reasons outlined in Decision 22862-D01-2017 and pursuant to Section 3(3) of the *Fair, Efficient and Open Competition Regulation*.

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 a market participant shall not share records that are not available to the public relating to any past, current or future price and quantity offer 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 must take into account when considering an application to share 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."

⁶ Exhibit 22862-X0013, Notice of Application, August 10, 2017.

⁷ Exhibit 22862-X0014, MSA Statement of Intent to Participate, August 15, 2017.

4 Views of the parties

4.1 Is the proposed sharing of records reasonably necessary

13. Oldman provided a representation from a senior officer in its application which stated that the sharing of preferential records with Apex, as described in the application, is reasonably necessary to carry out its business, including in particular, ensuring that Oldman 2 and Wintering Hills are operated, and the output of Oldman 2 and Wintering Hills is offered into the Power Pool in a manner that adequately support's Oldman's operations.⁸

4.2 Fair, efficient and openly competitive operation of the market

14. Oldman confirmed that the total market share offer control represented by it is less than the offer control limit of 30 per cent set out in Section 5(5) of the *Fair, Efficient and Open Competition Regulation*. Oldman further submitted that Apex does not exceed the 30 per cent limit, and that the total offer control will not exceed the 30 per cent limit following the issuance of an order permitting the sharing of records between Oldman and Apex.⁹

15. A senior officer of Oldman provided a written representation which indicated 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 electricity market, including the conduct referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*. The representation also stated that information shared will only be used in order to permit Apex to carry out its obligations as the party responsible for submitting bids and offers relative to the output of Oldman 2 and Wintering Hills.¹⁰

16. Oldman filed a similar representation from a senior officer at Apex to confirm that any records shared with Apex 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 of the *Fair, Efficient and Open Competition Regulation*. The representation also stated that Apex has established a formal program for internal compliance to ensure that the information shared by Oldman 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 of the *Fair, Efficient and Open Competition Regulation*.¹¹

5 Commission findings

17. The Commission finds that Oldman has demonstrated that the sharing of records is reasonably necessary for it to carry out its business because Oldman lacks the necessary personnel and resources to carry out certain business functions.

18. Apex has established a formal program for internal compliance to ensure that the information shared by Oldman will not be used for any purpose that does not support the fair,

⁸ Exhibit 22862-X0002, Preferential sharing of records application registered August 8, 2017, page 15.

⁹ Exhibit 22862-X0002, Preferential sharing of records application registered August 8, 2017, page 6, paragraph 27.

¹⁰ Exhibit 22862-X0002, Preferential sharing of records application registered August 8, 2017, page 15.

¹¹ Exhibit 22862-X0002, Preferential sharing of records application registered August 8, 2017, page 16.

efficient and openly competitive operation of the electricity market, including the conduct referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*.

19. All 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 set out in Section 5(5) of the *Fair, Efficient and Open Competition Regulation*.

20. Oldman and Apex each made representations that the preferential records relating to Oldman 2 and Wintering Hills will not be used for any purpose that does not support the fair, efficient and openly competitive operation of the Alberta electricity market.

21. Based on these measures, the Commission finds that the records shared between Oldman and Apex will not be used for any purpose that does not support the fair, efficient and openly competitive operation of the electricity market, including conduct referred to in Section 2 of the *Fair, Efficient and Open Competition Regulation*.

22. Having regard to the foregoing, the Commission is prepared to issue an order allowing Oldman to share records not available to the public with Apex, subject to the following terms and conditions:

- a) The order only applies to the sharing of information between Oldman 2 Wind Farm Limited and Apex Wind Asset Management, LLC relating to price, quantity and availability information for the 46 MW Oldman 2 Wind Farm, and the 88 MW Wintering Hills Wind Farm with respect to offers in the Alberta electricity and ancillary services markets.
- b) Oldman 2 Wind Farm Limited must notify the Commission of the termination of the commercial arrangements between Oldman 2 Wind Farm Limited and Apex Wind Asset Management, LLC within 30 days of the termination of such commercial arrangements.
- c) Oldman 2 Wind Farm Limited must notify the Commission of any material changes to the information and continued applicability of any representations contained within its application that may affect the compliance of Oldman 2 Wind Farm Limited and Apex Wind Asset Management, LLC with the *Fair, Efficient and Open Competition Regulation* within 30 days of the material changes.

23. The order shall be effective from the date of this decision until the earlier of June 30, 2022, or the termination of commercial arrangements between Oldman and Apex.

6 Decision

24. 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 set out in the following orders granted to Oldman and Apex, which are separate dispositions in this proceeding:

- Preferential Sharing of Records – Oldman Apex – Wintering Hills – 22862-D05-2017
- Preferential Sharing of Records – Oldman Apex – Oldman 2 – 22862-D06-2017

Dated on October 11, 2017.

Alberta Utilities Commission

(original signed by)

Bill Lyttle
Commission Member