



TransAlta Corporation

**Application for an Order Pursuant to Section 101(4) of
the Public Utilities Act**

September 5, 2025

Alberta Utilities Commission

Decision 30170-D01-2025

TransAlta Corporation

Application for an Order Pursuant to Section 101(4) of the Public Utilities Act

Proceeding 30170

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Published by the:

Alberta Utilities Commission
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 approves an application filed by TransAlta Corporation for an exemption order pursuant to Section 101(4) of the *Public Utilities Act* for the reasons stated below.

2 Introduction and background

2. TransAlta Corporation is the manager and the direct 99.99 per cent partner of the TransAlta Generation Partnership (the Partnership), which owns the legal interest to certain regulated electricity transmission assets situated on First Nation reserve lands in Alberta (Withheld Assets). TransAlta Corporation is also the parent corporation of TransAlta Generation Ltd., which holds the remaining 0.01 per cent of the Partnership. TransAlta Corporation has been designated as a public utility owner under Section 101 of the *Public Utilities Act*.¹ Section 101(2) of the act requires public utility owners to obtain Commission approval to undertake certain financial activities and transactions, and Section 101(4) of the act authorizes the Commission to grant an exemption from Section 101(2) of the *Public Utilities Act*.

3. On July 10, 2025, TransAlta Corporation filed an application with the Commission, pursuant to Section 101(4) of the *Public Utilities Act*, requesting an order (Exemption Order) of the Commission that:

- Section 101(2) of the *Public Utilities Act* does not apply to TransAlta Corporation nor TransAlta Generation Ltd., save and except in respect of any transaction undertaken by TransAlta Corporation filed or TransAlta Generation Ltd. under Section 101(2)(d) in respect of the Withheld Assets, unless and until this order is varied or rescinded by the Commission; and
- such further and other relief as TransAlta Corporation and TransAlta Generation Ltd. may request or the Commission may grant in the circumstances.²

4. The Commission issued a notice of application on July 11, 2025, which required parties to provide a statement of intent to participate by July 25, 2025. No statements of intent to participate were filed in response to the Commission's notice.

¹ *Public Utilities Designation Regulation*, Section 1(1)(z).

² Exhibit 30170-X0001, application, PDF page 3, paragraph 3.

5. The Commission considers the record of this proceeding to have closed on August 15, 2025, the date that TransAlta Corporation filed its response to a Commission information request.

3 Regulatory framework

6. TransAlta Corporation is listed in the *Public Utility Designation Regulation* as a designated owner of a public utility for the purposes of sections 101 and 102 of the *Public Utilities Act*.

7. The relevant portions of sections 101(1), 101(2) and 101(4) of the *Public Utilities Act* are as follows:

101(1) ...

(2) No owner of a public utility designated under subsection (1) shall

(a) issue any

- (i) of its shares or stock, or
- (ii) bonds or other evidence of indebtedness, payable in more than one year from the date of them,

unless it has first satisfied the Commission that the proposed issue is to be made in accordance with law and has obtained the approval of the Commission for the purposes of the issue and an order of the Commission authorizing the issue,

(b) capitalize

- (i) its right to exist as a corporation,
- (ii) a right, franchise or privilege in excess of the amount actually paid to the Government or a municipality as the consideration for it, exclusive of any tax or annual charge, or
- (iii) a contract for consolidation, amalgamation or merger,

(c) without the approval of the Commission, capitalize any lease, or

(d) without the approval of the Commission,

- (i) sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part of them, or
- (ii) merge or consolidate its property, franchises, privileges or rights, or any part of them,

and a sale, lease, mortgage, disposition, encumbrance, merger or consolidation made in contravention of this clause is void, but nothing in this clause shall be construed to prevent in any way the sale, lease, mortgage, disposition, encumbrance, merger or consolidation of any of the property of an owner of a public utility designated under subsection (1) in the ordinary course of the owner's business.

...

(4) The Commission, on its own initiative or on the application of a person having an interest, may, or on the order of the Lieutenant Governor in Council shall, declare that subsection (2) or any part of it does not apply with respect to any transaction or class of transactions specified in the declaration.

8. TransAlta Corporation submitted that due to its corporate structure reorganization in 2008, it assumed legal title to the Withheld Assets. However, TransAlta Corporation also owns, operates and develops electric power generation assets in Canada, the United States and Australia. TransAlta Corporation's assets are therefore largely unregulated by the Commission since it is primarily a generation-based company. TransAlta Corporation's non-regulated activities account for approximately 99.99 per cent of its asset base.

9. In Decision 21555-D01-2016,³ the Commission approved Rule 031,⁴ which provides guidance on the application of a conditional exemption from the requirement to seek advance Commission approval for issuances of equities and long-term debt, and an exemption from certain operational reporting requirements.

10. Prior to Decision 21555-D01-2016 and the approval of Rule 031, TransAlta Corporation and TransAlta Generation Inc. held a company specific exemption from Section 101(2) of the *Public Utilities Act*, referred to as the TransAlta Exemption, discussed below in Section 4 of this decision. However, in Decision 21555-D01-2016, the Commission rescinded prior decisions and orders granting exemptions from Section 101(2) of the act. While the decision did not explicitly reference the TransAlta Exemption, it did declare that "(f) all other decisions and order of the Public Utilities Board, the Alberta Energy and Utilities Board and the Alberta Utilities Commission ... which approve, *inter alia*, any ... exemptions under Section 101(2) of the *Public Utilities Act*" are of no force and effect in their entirety.⁵ This includes the TransAlta Exemption.

11. TransAlta Corporation maintained that it and TransAlta Generation Ltd. often do not meet the exemption requirements of Section 3.1 of Rule 031. None of TransAlta Corporation's recent debt issuances qualified for the exemption in Section 3.1 of Rule 031 as the issuance proceeds were not used solely in connection with the provision of regulated utility services. TransAlta Corporation also does not qualify for the exemption under Section 3.2 of Rule 031 because, as a "utility holding corporation," it holds a direct interest in the regulated utility operations, in addition to holding all permits and licences for the Withheld Assets.⁶

12. Therefore, TransAlta Corporation stated that while it often relies on Rule 031 in respect of its Canadian operations and shorter-term financing needs, for financing arrangements in the United States and Australia, as well as longer term issuances, it is required to obtain Commission approval, which can cause delays and additional expenses.⁷

13. The Commission accepts that many of TransAlta Corporation's financial transaction may not be able to meet the requirements of Rule 031 based on how TransAlta Corporation's business is operated.

³ Decision 21555-D01-2016: Conditional Exemption from Specific Financing and Reporting Requirements, Proceeding 21555, December 6, 2016.

⁴ Rule 031: *Conditional Exemption from Specific Financing and Reporting Requirements*.

⁵ Decision 21555-D01-2016, PDF page 15, paragraph 42.

⁶ Exhibit 30170-X0009, TAC/TAGEN-AUC-2025AUG13-002(b).

⁷ Exhibit 30170-X0001, application, paragraph 33.

4 Should the Commission approve TransAlta Corporation's application for an exemption order under Section 101(4) of the Public Utilities Act?

14. In its application, TransAlta Corporation is requesting a company specific relief pursuant to Section 101(4) of the *Public Utilities Act*, where Section 101(2) of the act no longer applies to TransAlta Corporation nor to TransAlta Generation Ltd., except for Section 101(2)(d) in respect of the Withheld Assets.⁸ If the Commission were to grant the requested relief, TransAlta Corporation maintained that any debt or equity issuances by TransAlta Corporation or TransAlta Generation Ltd. in respect of the Withheld Assets would continue to adhere to all exemption requirements of Rule 031.

15. The Commission provides some history of exemptions and TransAlta companies as well as its reasons for granting TransAlta Corporation's request for an Exemption Order under Section 101(4) of the *Public Utilities Act*.

16. In Decision 2002-093,⁹ the Alberta Energy and Utilities Board, predecessor to the Commission, ordered that pursuant to Section 101(4) of the *Public Utilities Board Act*, Section 101(2) of the act no longer applied to TransAlta Utilities Corporation, save and except in respect of any transaction taken under Section 101(2)(d) in respect of the Withheld Assets.¹⁰ TransAlta Corporation referred to this as the "TransAlta Exemption" in its application.¹¹

17. In Decision 2008-116, the Commission approved the merger and union of TransAlta Utilities Corporation, TransAlta Corporation and other entities to form an amalgamated TransAlta Corporation.¹² The Commission extended the TransAlta Exemption to the amalgamated TransAlta Corporation and also granted an exemption to TransAlta Generation Ltd. on similar terms. The Commission ordered the following:

- Section 101(2) of the *Public Utilities Act* does not apply to the amalgamated TransAlta Corporation, save and except in respect of any transaction undertaken by the amalgamated TransAlta Corporation, as the Manager of the TransAlta Generation Partnership, under Section 101(2)(d), in respect of the Withheld Assets; and
- Section 101(2) of the *Public Utilities Act* does not apply to TransAlta Generation Ltd., save and except in respect of any transaction undertaken by the TransAlta Generation Partnership, under Section 101(2)(d), in respect of the Withheld Assets.¹³

18. The Commission agrees with TransAlta Corporation that the requested Exemption Order has the same effect as the TransAlta Exemption originally approved for TransAlta Utilities Corporation. Since the Commission has already held in earlier decisions that the TransAlta Exemption would provide the Commission with the same level of regulatory oversight over the Withheld Assets as currently exists, the Commission is satisfied that the Exemption Order will

⁸ Exhibit 30170-X0009, TAC/TAGEN-AUC-2025AUG13-002.

⁹ Decision 2002-093: TransAlta Utilities Corporation, Disposition of Excluded Assets, Application 1270506, File 6404-6, November 13, 2002.

¹⁰ Decision 2002-093, PDF page 8.

¹¹ Exhibit 30170-X0009, application, paragraph 16.

¹² Decision 2008-116, TransAlta Corporation, TransAlta Utilities Corporation, TransAlta Generation Ltd., Reorganization of the TransAlta Corporation Group's Corporate Structure, Proceeding 107, Application 1587709, November 14, 2008, PDF page 15.

¹³ Decision 2008-116, Orders 5 and 7, PDF page 15.

preserve this status quo. The Commission finds merit in reducing the regulatory burden for the non-regulated business side of TransAlta Corporation and TransAlta Generation Ltd., and by granting this Exemption Order, TransAlta Corporation and TransAlta Generation Ltd. will be permitted to engage in financial transactions for their non-regulated business operations (activities described in Section 101(2) of the *Public Utilities Act*) without further Commission approval. The Withheld Assets are excluded from the exemption and the Commission's approval will be required for activities under Section 101(2)(d) of the *Public Utilities Act* related to the Withheld Assets.

5 Order

19. It is hereby ordered that:

- (1) TransAlta Corporation's application for an Exemption Order, under Section 101(4) of the *Public Utilities Act*, is approved as filed.

Dated on September 5, 2025.

Alberta Utilities Commission

(original signed by)

Douglas A. Larder, KC
Vice-Chair

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
TransAlta Corporation Blake, Cassels & Graydon LLP

Alberta Utilities Commission
Commission panel D.A. Larder, KC, Vice-Chair
Commission staff T. Campbell (Commission counsel) P. Baker S. Sharma