

September 21, 2017

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Attention: Kirsten Walli, Board Secretary

Ontario Energy Board
Suite 2701
2300 Yonge Street
Toronto ON M4P 1E4

Dear Ms Walli:

Re: Alectra Utilites Corporation (“Alectra”)/EB-2017-0024

We are counsel to the City of Hamilton (the “City”). We have been instructed by our client to file this letter in support of the Power Workers’ Union’s (the “PWU”) appeal of Procedural Order No. 1 dated September 8, 2017.

The City takes no position with respect to any specific concerns that the PWU may have with the application of Alectra. It is, however, concerned about two general principles which are raised by the denial of the PWU’s application for intervenor status.

By way of introduction, the City acknowledges that the OEB has the right to require that applicants for intervenor status have some demonstrable interest in the application. The PWU would seem to clearly meet that criterion.

The City also acknowledges that the OEB has the right to deny intervenor status to anyone intending to raise issues clearly and demonstrably unrelated to an application. There is nothing in the PWU’s request for intervenor status that would support the conclusion that the issues of concern to the PWU are clearly and demonstrably unrelated to the Alectra application.

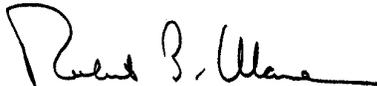
The denial of the PWU’s request for intervenor status was based on two grounds. The first is that “The broad issues that PWU wishes to pursue are not the focus of the current application which is limited in scope.” The City submits that it is inappropriate for the OEB, before interested parties have had the opportunity to make submissions with respect to the issues that Alectra’s application raises, to limit, and in this instance severely limit, the scope of the issues to be considered. The City submits that it is the hearing panel who should decide the scope of the issues after affording interested persons the opportunity to make submissions on what issues the OEB should consider.

The second ground on which the PWU's request for intervenor status was denied was that "the PWU did not participate in any of the earlier rebasing applications of the predecessor utilities where the base-year expenditures were reviewed in detail". Whether or not someone has participated in earlier proceedings is, the City submits, irrelevant. Decisions made in earlier proceedings do not limit the discretion of the hearing panel to make decisions based on evidence in this application. In addition, a party may wish to argue, for example, that the way the OEB has chosen to interpret and apply decisions in earlier proceedings is incorrect.

The Alectra application is the first by the merged utilities since the OEB approved the merger. Decisions made in the Alectra application may have important implications for the extended period leading to the re-basing of the combined utilities. Given that, and aside from any other consideration, the City submits that it is essential that parties whose interests may be affected by the merger, and by the application, be allowed to participate.

Yours truly,

WeirFoulds LLP



Robert B. Warren

RBW/dh

cc: Paliare Roland
Attention: Richard P. Stephenson
cc: The City of Hamilton
Attention: Michael Kovacevic
cc: Torys LLP
Attention: C. Keizer and C. Smith

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