



**EB-2017-0024**

**Alectra Utilities Corporation**

**Application for electricity distribution rates and other  
charges beginning January 1, 2018**

**DECISION ON ISSUES LIST AND INTERIM RATES AND  
PROCEDURAL ORDER NO. 3  
November 17, 2017**

Alectra Utilities Corporation (Alectra Utilities) filed an application with the Ontario Energy Board (OEB) on July 7, 2017 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B), and under the OEB's *Filing Requirements for Incentive Rate-setting Applications* seeking approval for changes to its electricity distribution rates to be effective January 1, 2018. This is the OEB's decision on the final issues list for this proceeding. Additional procedural and accounting matters have also been ordered.

The OEB issued Procedural Order No. 1 which among other matters established that OEB staff was to file a proposed issues list, or alternatively advise the OEB in writing that parties and OEB staff had been unable to reach an agreement on a draft issues list by October 18, 2017.

On October 18, 2017, OEB staff advised the OEB that parties had been unable to reach an agreement on a draft issues list. OEB staff filed a draft issues list based on an issues list prepared by OEB staff with proposed changes and comments from some intervenors and Alectra Utilities.

On October 24, 2017 the OEB issued Procedural Order No. 2 which included a revised draft issues list to assist parties during the settlement conference. In that order the OEB made provision for staff to file a draft issues list agreed to by OEB staff, intervenors and Alectra Utilities following the settlement conference. The OEB also made provision for submissions on the revised draft issues list if parties did not come to agreement.

Following the settlement conference, OEB staff notified the OEB that there was no agreement on the revised draft issues list and OEB staff, the School Energy Coalition (SEC), the Association of Major Power Consumers in Ontario (AMPCO), the Consumers Council of Canada (CCC), the Building Owners and Managers Association of Greater Toronto (BOMA), the City of Hamilton, the Vulnerable Energy Consumers Coalition (VECC) and Alectra Utilities all made submissions.

The only comments or concerns raised by parties were with respect to Issue 1.1. There are two matters of dispute with respect to Issue 1.1. The first is the changes that Alectra Utilities made to capitalization policies related to the business consolidation of the predecessor companies Horizon Utilities, Enersource, PowerStream and Hydro One Brampton. The second concern, which was raised by the City of Hamilton, was related to the determination of street lighting rates for the Horizon rate zone (RZ). These two matters are discussed separately below.

### **Capitalization Policy Change**

OEB staff submitted that the revised draft issues list is appropriate and that consideration of the change to the capitalization policy for the Horizon RZ is a valid issue in this proceeding, encompassed within Issue 1.1. OEB staff noted that the impact of this change in accounting practice is significant as it represents over a six million dollar annual reduction in OM&A in the Horizon RZ.

In support of its position, OEB staff argued that a provision of the settlement proposal in the former Horizon Utilities' Custom Incentive Rate (Custom IR) application<sup>1</sup>, which was accepted by the OEB, may be interpreted as requiring OEB approval of material accounting changes such as this capitalization change.

SEC took a similar position, submitting that it believed this matter was already captured in Issue 1.1 as a Z-factor. However, SEC argued that because of the range of positions that parties may wish to take on how to deal with this matter, and because of the range of options potentially available to the OEB to address this, the OEB should add an additional issue to the issues list on the appropriate way to account for the change in capitalization policy in the Horizon RZ.

SEC submitted that at this point in the proceeding, it is not necessary for the OEB to determine whether or not this is a Z-factor, it is enough for the OEB to determine that parties should be able to argue this issue.

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<sup>1</sup> EB-2014-0002

VECC, CCC, BOMA and AMPCO all argued that the change in capitalization policy should be in scope of this proceeding either as an element of Issue 1.1 or as a separate issue. AMPCO also noted that the OEB should consider this issue for the Enersource RZ as well.

Alectra Utilities submitted that the appropriateness or impact of the change in capitalization policy should not be an issue in this proceeding. Alectra Utilities argued that parties to the settlement agreement for the Custom IR rate proceeding for the former Horizon Utilities<sup>2</sup> had contemplated that there could be future accounting policy changes and these would be dealt with as part of the earning sharing mechanism (ESM). Further, Alectra Utilities noted that the ESM in this proceeding is for Horizon's 2016 earnings, the year before the merger and therefore it argued that the capitalization change in 2017 could not impact those earnings.

### Findings

The OEB is adding a new issue to the final issues list as follows:

What is the appropriate way to account for the change in capitalization policy resulting from the merger for Alectra Utilities and its predecessor companies?

There was limited information in the application on the change to a common capitalization policy for Alectra Utilities. Through interrogatories, the magnitude of the change for the Horizon RZ was disclosed to be in excess of six million dollars per year. Alectra Utilities also indicated that there were changes to capitalize more costs for the Enersource RZ and less costs for the Brampton RZ.<sup>3</sup> The magnitude of these changes is unknown. Furthermore, the exact date and specific details of the transition to the harmonized capitalization policy are not clear in the evidence.

The OEB requires confirmation that the capitalization change has no impact on 2016 earnings for the Horizon RZ, and that any impacts in 2017 are tracked for all rate zones to leave all options open for how the OEB may treat this capitalization change. Having a separate issue on this matter on the issues list ensures all options are open for consideration.

Based on the dates within this procedural order, a decision for this proceeding will not be issued in 2017. The OEB finds it necessary to establish three new accounts to track the change in capitalization for the Horizon RZ, Enersource RZ and Brampton RZ to

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<sup>2</sup> EB-2014-0002

<sup>3</sup> EB-2017-0024 Interrogatory Responses CCC-12 filed October 11, 2017

ensure all options remain open and available for consideration, and rate retroactivity for the 2017 period is not an issue.

At this time, the OEB is making provision for any comments on the recording details for these accounts, such as the effective date and how entries should be recorded. The OEB notes that when distributors were required to change their capitalization and depreciation policies on the transition to International Financial Reporting Standards (IFRS), the OEB required these cost changes to be tracked in Accounts 1575 or 1576 for future disposition to customers. An option for the new accounts for Alectra Utilities is that they be similar in nature to Account 1576 (for the IFRS transition).

The nature of any disposition of these accounts is not being determined at this time. The OEB will hear submissions on options for disposition of these accounts as part of final arguments.

### **Street Lighting Rates for the Horizon Rate Zone**

The submissions of the City of Hamilton concerned only the Horizon RZ and issues falling under Issue 1.0 “Custom Incentive Rate-Setting (IR) Application Update” of the revised draft issues list appended to Procedural Order No.2.

The City of Hamilton submitted that to address its concerns the following issues should be added to this section of the issues list:

- (i) Are the proposed rates for the Horizon RZ just and reasonable?
- (ii) What changes, if any, are required in the way streetlight rates are determined in the Horizon RZ in order that they give full effect to the City’s LED conversion program?
- (iii) Is Alectra permitted to defer updating its load profile for the Horizon RZ until rebasing in 2027?

The City of Hamilton first expressed concerns with the wording used in Issue 1.1 in that it did not specify which “OEB policies and practices” were being referred to. The City of Hamilton submitted that this put it in the position of having to guess what the relevant criteria are upon which the application is to be assessed.

The City of Hamilton submitted that Issue 1.1 also does not capture all issues relevant to the determination of rates in the Horizon RZ and assumes that the only issues with respect to the Horizon RZ are (i) whether Alectra Utilities has appropriately updated the

items in the settlement agreement that was reached in the Custom IR proceeding<sup>4</sup>; and (ii) whether Alectra Utilities' proposal is consistent with OEB policies and practices.

The City of Hamilton submitted that these incorrect assumptions prevent parties from leading evidence. The City of Hamilton argued that the OEB's statutory obligation is to approve just and reasonable rates and that while the OEB may be authorized to approve the use of any method or technique in how rates are calculated, that does not override the obligation to approve just and reasonable rates. The City of Hamilton argued that the OEB cannot prevent parties from leading evidence relevant to Alectra Utilities' application and must consider that evidence to decide how its earlier decisions and policies might need to be altered.

The City of Hamilton submitted that there is nothing in the decisions of the OEB, or of the Divisional Court, which would preclude Alectra Utilities from updating the load profiles of all rate classes. This would be done in order to, among other things, ensure that the City's LED conversion program is properly accounted for, and that the resulting rates are just and reasonable.

The City of Hamilton indicated that, if it were allowed to file evidence, that evidence would be that the failure to require load profiles to be updated would result in approximately \$500,000 in additional rates in 2018.

### Findings

The OEB will not add the City of Hamilton's issues to the issues list. As the OEB noted in Procedural Order No. 2, the Custom IR proceeding for Horizon Utilities<sup>5</sup> approved rates for a five year period from January 1, 2015 to December 31, 2019. This was clearly set out in the OEB's Notice of Hearing for that earlier proceeding. The current proceeding is the year four update to distribution rates under the framework for distribution rates approved by the OEB in the Custom IR proceeding<sup>6</sup>. The framework sets out specific off-ramps, reopeners, annual adjustments and annual adjustments outside the normal course of business. These prescribed mechanisms were the only adjustments to be made to rates for the five year term. This rate-setting framework for the Horizon RZ was adjudicated and therefore is a Decision of the OEB, not a policy. The policies on which Alectra Utilities has relied are included in its evidence<sup>7</sup>. In its Decision on the Custom IR proceeding<sup>8</sup>, the OEB concluded that the framework

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<sup>4</sup> EB-2014-0002

<sup>5</sup> *Ibid*

<sup>6</sup> *Ibid*

<sup>7</sup> EB-2017-0024 Exhibit 1, Tab 1 Schedule 1 Pages 10-12

<sup>8</sup> EB-2014-0002

adequately reflects the public interest and will result in just and reasonable rates for customers.

In the year 2 update of Horizon's Custom IR application,<sup>9</sup> the OEB denied a request by Horizon Utilities to update the load profile for the street lighting class for the purpose of allocating costs between customer classes because it involved selective updating.<sup>10</sup> The City of Hamilton, which had intervened in that proceeding and supported Horizon Utilities' request to update the street lighting class load profile, filed a motion to review this decision. The OEB denied the motion at the threshold stage. In doing so, the OEB stated that selective updating of the street lighting load profile for the purpose of cost allocation would benefit the street lighting rate class at the expense of other rate classes.<sup>11</sup> The OEB also noted that the LED conversion program had already resulted in financial savings to the City of Hamilton through lower commodity (and other energy charges), transmission, and distribution charges.<sup>12</sup>

The City of Hamilton appealed the OEB's decision to the Ontario Divisional Court. In dismissing the City's appeal, the Court explained that the OEB's "...concerns with selectively updating load profiles based on partial load data is one of fairness."<sup>13</sup> Moreover, the Court rejected the City's argument that the OEB's decision acts as a disincentive to implement energy conservation measures, noting how the OEB had found that "the City still had a strong incentive to implement its LED street lighting initiative as by doing so it would consume less electricity, which would in turn decrease its electricity bills."<sup>14</sup>

The OEB has therefore already heard and decided on the issue of whether the load profile for street lighting should be updated in isolation of an update to load profiles for all customer classes, and will not hear it again in this proceeding.

The City of Hamilton is now suggesting that the load profiles for all customer classes be updated. The OEB will not require updates to all load profiles in this proceeding. Alectra Utilities has stated that it does not have more accurate load profiles<sup>15</sup> and it cannot estimate the annual rate impact for the street lighting class as it would require updated load profiles for all customer classes<sup>16</sup>.

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<sup>9</sup> EB-2015-0075

<sup>10</sup> *Ibid*, page 6

<sup>11</sup> EB-2016-0005, page 1

<sup>12</sup> *Ibid*, page 6

<sup>13</sup> *Hamilton (City) v The Ontario Energy Board*, 2016 ONSC 6447 (Div. Ct.), para. 10.

<sup>14</sup> *Ibid.*, para. 11.

<sup>15</sup> EB-2017-0024 Interrogatory responses HRZ-COH-1 filed October 11, 2017

<sup>16</sup> EB-2017-0024 Interrogatory responses HRZ-COH-6 filed October 11, 2017

The cost allocation process takes the forecast costs approved by the OEB in a cost-based rate application, such as Horizon's Custom IR proceeding, and allocates them to the Horizon RZ's different customer classes. The cost allocation process uses a number of different allocators that go well beyond forecasted load profiles, and the cost allocation process is just one component of a Custom IR rate application. Updating just load profiles is a selective updating of both the cost allocation process and the Custom IR application as a whole. Moreover, this is not a re-opener within the approved rate-setting framework for the Horizon RZ.

In this proceeding, the OEB is setting distribution rates for 2018. It is not in scope of this proceeding for the OEB to make a determination on whether load profiles can be updated once the current rate-setting framework for the Horizon RZ has ended at the end of 2019.

### **Summary for Final Issues List**

Other than the issue of the change in capitalization policy, SEC, VECC, CCC, BOMA and AMPCO agreed that the revised draft issue list issued by the OEB as part of Procedural Order No. 2 is appropriate or sufficient. The final issues list includes all of the issues on the revised draft issues list and a new issue on the capitalization policy change. The City of Hamilton made no submissions beyond street lighting rates for the Horizon RZ. The OEB has not included the issues proposed by the City of Hamilton, but has retained an issue on whether the revenue to cost ratios for the Horizon RZ have been appropriately adjusted to reflect the OEB's decision in the 2016 rate-setting proceeding<sup>17</sup>. The final issues list is attached as Schedule A.

### **Cost Eligibility**

In its submission on the issues list, VECC requested that the OEB confirm the issues that are cost eligible. The OEB identified the matters that are eligible for cost claims in its October 13, 2017 *Decision on Appeal on Intervenor Status and Update on Eligibility for Cost Claims*. With this Decision on the issues list, the OEB is expanding the scope of issues eligible for cost claims to include the change in the capitalization policy. The issues list for the Alectra Utilities proceeding is not the same as the matters eligible for cost claims.

The revised scope for cost claims eligibility is as follows:

- Earnings sharing for the Horizon RZ

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<sup>17</sup> EB-2015-0075

- Incremental capital module rate riders for the PowerStream, Enersource and Hydro One Brampton RZs
- The distribution system plan for the Enersource RZ
- New deferral accounts requested for the PowerStream and Enersource RZs for the incremental capital expenditures for the following projects:
  - Metrolinx Crossings Remediation Project
  - GO Rail Network Electrification Project
- The change in the capitalization policy, including the three new accounts

### **Interim Rates**

In its application, Alectra Utilities sought OEB approval to declare its current rates interim for each rate zone effective January 1, 2018, if the approvals sought in this proceeding will not be issued in time to implement final rates effective January 1, 2018.

The procedural dates included in this order continue into January 2018. As such, Alectra Utilities' current rates are declared interim as of January 1, 2018 until such time as new rates are approved by the OEB. This determination of interim rates is made without prejudice to the OEB's decision on Alectra Utilities' application and should not be construed as predictive, in any way whatsoever, of the OEB's final determination of the effective date for rates arising from the application. The OEB further confirms that any rates with expiry dates included among Alectra Utilities' current rates shall not be charged to customers beyond the expiry dates contained in the current Tariff of Rates and Charges.

### **Next Steps**

The OEB has reviewed the submissions of the parties on whether issues should be heard through an oral or written hearing.

Intervenors and OEB staff submitted that there should be some form of additional discovery given the complex nature of the evidence on the distribution system plans and the incremental capital modules (ICMs). Those same parties also noted that further discovery was necessary for the new issue on the change in capitalization policy that arose following the interrogatory process. Most parties and OEB staff submitted that the issues related to the ICMs should be heard through an oral hearing. Some parties also suggested there be a technical conference either in addition to, or in place of an oral hearing if the OEB decides to proceed with a written hearing. Alectra Utilities disagreed that a technical conference was required but submitted that an oral hearing may be warranted for the ICMs.

The City of Hamilton submitted that it is difficult to determine whether an oral hearing is required until the content of the issues list, and the full evidentiary record for the application, have been determined. However, as indicated in its findings above the OEB has determined that the street lighting issue raised by the City of Hamilton should not be included on the final issues list.

The application by Alectra Utilities includes three incentive rate-making mechanism (IRM) applications and the year four update to a previously approved Custom IR application. IRM and Custom IR update applications have many mechanistic aspects and there is an expectation of regulatory efficiency in the hearing process. The OEB has determined that only one additional round of discovery is warranted and that the technical nature of the evidence on the ICMs and the capitalization policy accounting change are best tested through a transcribed technical conference. The OEB will not limit the scope of the issues that may be explored at the technical conference, but encourages parties to focus on clarification of responses from previously filed interrogatories. The OEB is not making provision for an oral hearing, and has scheduled dates for final submissions.

#### **THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. Alectra Utilities' current Tariff of Rates and Charges shall be made interim as of January 1, 2018, and until such time as a final rate order is issued by the OEB. Any rates on the current Tariff of Rates and Charges with expiry dates shall not continue to be charged to customers beyond those expiry dates.
2. A transcribed Technical Conference will be held on November 30, 2017 starting at 9:30am in the OEB's West Hearing Room at 2300 Yonge Street, 25<sup>th</sup> floor, Toronto, Ontario. If required, the Technical Conference will continue on December 1, 2017 in the OEB's North Hearing Room. Parties intending to participate are to notify Alectra Utilities and copy all parties, of the topic areas for questioning by November 28, 2017.
3. Any undertakings from the Technical Conference shall be filed with the OEB and forwarded to all parties by December 15, 2017.
4. Intervenors, Alectra Utilities and OEB staff shall file any comments on the recording details for the new accounts with the OEB and forward any such comments to all parties on or before December 7, 2017.

5. Alectra Utilities shall file its Argument-in-Chief with the OEB and forward it to all parties on or before December 22, 2017.
6. OEB staff and intervenors shall file any submissions with the OEB and forward them to all parties on or before January 16, 2018.
7. Alectra Utilities shall file its reply submission with the OEB and forward it to all parties on or before January 30, 2018.

**DATED** at Toronto, November 17, 2017

**ONTARIO ENERGY BOARD**

*Original signed by*

Kirstin Walli  
Board Secretary

**Schedule A**

**Alectra Utilities Corporation  
2018 Electricity Distribution Rates Application  
OEB File Number EB-2017-0024**

**FINAL ISSUES LIST**

**November 17, 2017**

**Alectra Utilities Corporation  
2018 Distribution Rates Application  
Ontario Energy Board File Number EB-2017-0024  
Final Issues List**

**1.0 CUSTOM INCENTIVE RATE-SETTING (IR) APPLICATION UPDATE**

- 1.1 Is the Year 4 Custom IR Update proposed for the Horizon Utilities rate zone (RZ) complete and in accordance with the framework accepted by the OEB from the EB-2014-0002 settlement agreement and any applicable OEB policies, practices and requirements and, if not, are any proposed departures adequately justified?
- 1.2 Have the revenue to cost ratios for the Horizon RZ been appropriately adjusted to reflect the OEB's decision in the EB-2015-0075 proceeding?

**2.0 INCENTIVE RATE-SETTING MECHANISM (IRM) SCHEDULES AND MODELS**

- 2.1 Are the IRM Model filings for the Brampton, Enersource and PowerStream rate zones in accordance with OEB policies, practices and requirements, and if not, are any proposed departures adequately justified?
- 2.2 Is Alectra Utilities' application of the Incremental Capital Module (ICM) criteria in accordance with the OEB policies and if not, are any proposed departures adequately justified?
- 2.3 Is the level of planned capital expenditures proposed in the ICMs appropriate and is the rationale for planning, prioritization and pacing choices appropriate and adequately explained and should the level of expenditures be approved by the OEB, giving due consideration to:
  - customer feedback and preferences
  - productivity
  - compatibility with historical expenditures
  - compatibility with applicable benchmarks
  - reliability and service quality
  - impact on distribution rates
  - impact on OM&A spending
  - government-mandated obligations
  - the objectives of Alectra Utilities and its customers
  - the five-year Distribution System Plans
- 2.4 Are Alectra Utilities' proposals regarding the ICM true-ups appropriate?

- 2.5 Does the Distribution System Plan (DSP) filed for the Enersource rate zone provide sufficient information to support the proposed ICM for this rate zone?

### **3.0 ACCOUNTING**

- 3.1 Are Alectra Utilities' proposals for deferral and variance accounts, including the balances in the existing accounts and their disposition, requests for new accounts and the continuation of existing accounts, appropriate?
- 3.2 What is the appropriate way to account for the change in capitalization policy resulting from the merger for Alectra Utilities and its predecessor companies?