

EB-2018-0016

Compendium of Energy Probe

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YRRT

Board of Directors

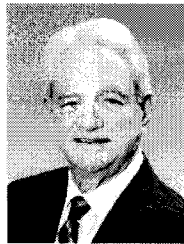
YRRTC is a wholly-owned subsidiary and share capital corporation of The Regional Municipality of York. Its Board of Directors comprises the York Region Chairman and CEO and the Mayors or Councillors for the Towns of Richmond Hill and Newmarket and Cities of Markham and Vaughan. There is no private sector or other public sector representation on the YRRTC Board of Directors.

Chair of the Board	Mayor Frank Scarpitti, Markham
Vice-Chair of the Board	Mayor Maurizio Bevilacqua, Vaughan
	Wayne Emmerson
Director & CEO	Chairman and CEO, The Regional Municipality of York
Director	Mayor Dave Barrow, Richmond Hill
Director	Mayor Tony Van Bynen, Newmarket
Director	Regional Councillor Jim Jones, Markham
Director	Regional Councillor Vito Spatafora, Richmond Hill

Alectra Board of Directors

The mandate of the Board is to govern Alectra Inc., by setting its strategic direction and risk tolerances, selecting and overseeing the effectiveness of the CEO, and monitoring the successful performance, culture and ethical integrity of the Corporation.

The Board is accountable to the Shareholders to establish a system of effective corporate governance and to achieve the corporation's mission/vision/purpose.



Norm Loberg
Chair



Gerald
Beasley



Paul
Benson



Maurizio
Bevilacqua



Robert
Cary



Bonnie
Crombie



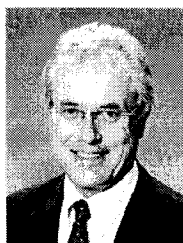
Giuseppina
D'Agostino



Fred
Eisenberger



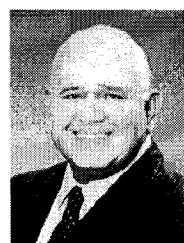
Jeff
Lehman



Don
Lowry



Teresa
Moore



Frank
Scarpitti



Annesley
Wallace

Energy Probe-7

Reference(s): Exhibit 2, Tab 3, Schedule 10, p. 20

Please explain the practical application of cost sharing under the Public Service Works on Highways Act (PSWHA). Specifically, what projects are covered, which costs are shared and which are not shared, and is there a significant delay from the time the costs are incurred by Alectra Utilities and their partial reimbursement?

Response:

1 As outlined in the Bathurst Street Road Widening Business Case in Attachment 31, Alectra
2 Utilities installs the majority of its electrical distribution infrastructure along road right of ways
3 that are owned and managed by local and regional Municipalities corresponding to Alectra
4 Utilities' service area at no cost to the utility. Alectra Utilities' distribution equipment occupies
5 road allowances, at no cost to the utility. In return, Alectra Utilities is required to remove,
6 relocate, or reconstruct its facilities, in order to accommodate the specific requirements of the
7 road authorities. The road authorities' road works programs drive plant relocation scope and
8 timing. Relocation of assets to accommodate road works impacts both overhead and
9 underground distribution plant. Alectra Utilities remains compliant with the Public Service Works
10 on Highways Act ("PSWHA") regarding regulatory obligations and recovery of capital
11 contributions. As per the PSWHA, Alectra Utilities recovers capital contributions as agreed to
12 with the road authority or, in the absence of agreement, based upon 50% of from the cost of
13 labour (including saving device costs). The PSWHA applies to capital projects initiated by road
14 authorities, which may include the Ministry of Transportation, a municipal corporation, board,
15 commission, or other body having control of the construction, improvement, alteration,
16 maintenance and repair of a highway and responsibility therefor.

17
18 It is Alectra Utilities' practice to establish a purchase order with a road authority before the start
19 of a relocation project and to invoice the road authority on major project milestones. Final
20 invoicing issuance may be delayed as Alectra Utilities gathers project costs and invoicing from
21 contractors and suppliers. For complex projects were Alectra Utilities and the Road Authority
22 have agreed to a specific apportionment of costs, as permitted by the PSWHA, payment of
23 capital contributions may take longer if clarification of billing costs is required. Please also see
24 Alectra Utilities' response to Interrogatory BOMA-6 for further explanation of specific
25 apportionment of costs as it pertains to the YRRT project.

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Public Service Works on Highways Act

R.S.O. 1990, CHAPTER P.49

Consolidation Period: from June 22, 2006 to the e-Laws currency date

Last amendment: 2006, c. 19, Sched. C, s. 1 (1).

Legislative History: 1998, c. 15, Sched. E, s. 30; 2006, c. 19, Sched. C, s. 1 (1).

Definitions

1 In this Act.

“appliances or works” means poles, wires, conduits, transformers, pipes, pipe lines or any other works, structures or appliances placed on or under a highway by an operating corporation; (“appareils ou ouvrages”)

“cost of labour” means,

- (a) the actual wages paid to all workers up to and including the foremen for their time actually spent on the work and in travelling to and from the work, and the cost of food, lodging and transportation for such workers where necessary for the proper carrying out of the work,
- (b) the cost to the operating corporation of contributions related to such wages in respect of workers’ compensation, vacation pay, unemployment insurance, pension or insurance benefits and other similar benefits,
- (c) the cost of using mechanical labour-saving equipment in the work,
- (d) necessary transportation charges for equipment used in the work, and
- (e) the cost of explosives; (“coût de la main-d’œuvre”)

“operating corporation” means a municipal corporation or commission or a company or individual operating or using a telephone or telegraph service, or transmitting, distributing or supplying electricity or artificial or natural gas for light, heat or power; (“exploitant”)

“road authority” means the Ministry of Transportation, a municipal corporation, board, commission, or other body having control of the construction, improvement, alteration, maintenance and repair of a highway and responsible therefor; (“office de la voirie”) R.S.O. 1990, c. P.49, s. 1; 1998, c. 15, Sched. E, s. 30.

Section Amendments with date in force (d/m/y)

1998, c. 15, Sched. E, s. 30 - 01/04/1999

Notice to operating corporation to take up works

2 (1) Where in the course of constructing, reconstructing, changing, altering or improving a highway it becomes necessary to take up, remove or change the location of appliances or works placed on or under the highway by the operating corporation, the road authority may by notice in writing served personally or by registered mail require the operating corporation, without prejudice to their respective rights under section 3, so to do on or before the date specified in the notice. R.S.O. 1990, c. P.49, s. 2 (1).

Apportionment of costs of taking up

(2) The road authority and the operating corporation may agree upon the apportionment of the cost of labour employed in such taking up, removal or change, but, subject to section 3, in default of agreement such cost shall be apportioned equally between the road authority and the operating corporation, and all other costs of the work shall be borne by the operating corporation. R.S.O. 1990, c. P.49, s. 2 (2).

Minimum time interval

(3) The date specified in a notice under subsection (1) shall be as agreed upon by the road authority and the operating corporation, but in default of agreement shall be not less than sixty days after the date of the personal service or mailing of the notice. R.S.O. 1990, c. P.49, s. 2 (3).

Additional time

(4) An operating corporation may, upon such notice as a judge of the Superior Court of Justice directs, apply to the judge for an order altering to a later date the date specified in the notice given under subsection (1), and, if the judge finds that the physical or technical difficulties in complying with the notice require additional time, the judge may make such order as he or she considers appropriate. R.S.O. 1990, c. P.49, s. 2 (4); 2006, c. 19, Sched. C, s. 1 (1).

Compensation

(5) Where a road authority incurs a loss or expense by reason of an operating corporation neglecting to take up, remove or change the location of appliances or works by the date specified in a notice given under subsection (1) or such date as altered by a judge under subsection (4), the operating corporation shall make due compensation to the road authority for such loss or expense, and a claim for compensation, if not agreed upon by the operating corporation and the road authority, shall be determined by the Ontario Municipal Board. R.S.O. 1990, c. P.49, s. 2 (5).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Apportionment of cost by Ontario Municipal Board

3 Where it is made to appear to the Ontario Municipal Board, upon application made to it, that the circumstances and conditions under which any of the appliances or works mentioned in section 2 have been placed on or under a highway, or that other special conditions render it unfair or unjust that the cost of taking up, removing or changing the location of the appliances or works should be apportioned and paid as provided in section 2, the Board, upon the application of the road authority or operating corporation, may apportion the cost of the taking up, removing or changing the works in such manner as appears to it to be equitable, and the decision of the Board is final and is not subject to appeal. R.S.O. 1990, c. P.49, s. 3.

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BOMA-6

Reference(s): Attachment 31

Please provide:

Table 3 on p. 8 shows the contributed capital at 50% of the Gross Capital for the Y2 section of the project, but a higher percentage, more than 60%, for the H2 section. What accounts for the different percentage capital contributions for the Y2 and H2 work?

Please explain fully.

Response:

- 1 The apportionment of costs for relocating public utilities within a municipal road allowance is
- 2 determined in accordance with the Public Service Works on Highways Act ("PSWHA"). The
- 3 PSWHA specifies that a road authority and an electricity distribution company may agree upon
- 4 the apportionment of the cost of labour. In the absence of an agreement such costs shall be
- 5 apportioned equally and all other costs of the work shall be borne by the electricity distribution
- 6 company. Under the PSWHA, the "cost of labour" is a defined term that includes wages paid to
- 7 workers as well as other elements, such as the cost of using mechanical labour-saving
- 8 equipment in the work. Typically, for road widening projects, the "cost of labour" that is shared
- 9 between the road authority and the electricity distribution company accounts for 30 to 40% of
- 10 the total project cost. As a result, in the absence of an agreement, the costs of a typical road
- 11 widening project would be allocated 30-40% to the road authority and 60-70% to the electricity
- 12 distribution company.
- 13
- 14 As permitted under the PSWHA, Alectra Utilities and the York Region Rapid Transit Corporation
- 15 ("YRRTC") agreed on different apportionment of the cost responsibility for different portions of
- 16 the relocation project based on the incremental costs of certain requests made by the YRRTC.
- 17 At the request of the YRRTC, Alectra Utilities was required for specific portions of the YRRT
- 18 project to relocate some sections underground, install concrete poles with specifications beyond
- 19 existing standards and relocate assets at different spacing requirements. Alectra Utilities and
- 20 YRRTC agreed to reflect these incremental relocation costs by having YRRTC bear greater
- 21 portions of these relocation costs.

1. GENERAL AND ADMINISTRATIVE PROVISIONS

1.1 Purpose of this Code

This Code sets out rules that govern the conduct of utilities as that conduct relates to their respective affiliates, with the objective of:

- a) protecting ratepayers from harm that may arise as a result of dealings between a utility and its affiliate;
- b) preventing a utility from cross-subsidizing affiliate activities;
- c) protecting the confidentiality of information collected by a utility in the course of provision of utility services;
- d) ensuring there is no preferential access to utility services;
- e) preventing a utility from acting in a manner that provides an unfair business advantage to an affiliate that is an energy service provider; and
- f) preventing customer confusion that may arise from the relationship between a utility and its affiliate.

1.2 Definitions

In this Code:

“Act” means the *Ontario Energy Board Act, 1998*;

“affiliate”, with respect to a corporation, has the same meaning as in the *Business Corporations Act* (Ontario);

“Affiliate Contract” means any contract between a utility and an affiliate, and includes a Services Agreement;

“agent” means a person acting on behalf of a utility and includes persons contracted to provide services to a utility;

“Board” means the Ontario Energy Board;

2.3.3 Where a Market Exists

- 2.3.3.1 Where a reasonably competitive market exists for a service, product, resource or use of asset, a utility shall pay no more than the market price when acquiring that service, product, resource or use of asset from an affiliate.
- 2.3.3.2 A fair and open competitive bidding process shall be used to establish the market price before a utility enters into or renews an Affiliate Contract under which the utility is acquiring a service, product, resource or use of asset from an affiliate.
- 2.3.3.3 Despite section 2.3.3.2, where satisfactory benchmarking or other evidence of market price is available, a competitive tendering or bidding process is not required to establish the market price for a contract with an annual value of less than \$100,000 or 0.1% of the utility's utility revenue, whichever is greater. Where an Affiliate Contract has a term of more than one year, the annual value of the Affiliate Contract shall be determined by dividing the total value of the Affiliate Contract by the number of years in the term.
- 2.3.3.4 Where the value of a proposed contract over its term exceeds \$500,000 or 0.5% of the utility's utility revenue, whichever is greater, a utility shall not award the contract to an affiliate before an independent evaluator retained by the utility has reported to the utility on how the competing bids meet the criteria established by the utility for the competitive bidding process.
- 2.3.3.5 The Board may, for the purposes of sections 2.3.3.3 and 2.3.3.4, consider more than one Affiliate Contract to be a single Affiliate Contract where they have been entered into for the purpose of setting the contract values at levels below the threshold level set out in section 2.3.3.3 or 2.3.3.4.
- 2.3.3.6 Where a reasonably competitive market exists for a service, product, resource or use of asset, a utility shall charge no less than the greater of (i) the market price of the service, product, resource or use of asset and (ii) the utility's fully-allocated cost to provide service, product, resource or use of asset, when selling that service, product, resource or use of asset to an affiliate.

2.3.4 Where No Market Exists

- 2.3.4.1 Where it can be established that a reasonably competitive market does not exist for a service, product, resource or use of asset that a utility acquires from an affiliate, the utility shall pay no more than the affiliate's fully-allocated cost to provide that service, product, resource or use of asset. The fully-allocated cost may include a return on the affiliate's invested capital. The return on invested capital shall be no higher than the utility's approved weighted average cost of capital.
- 2.3.4.2 Where a reasonably competitive market does not exist for a service, product, resource or use of asset that a utility sells to an affiliate, the utility shall charge no less than its fully-allocated cost to provide that service, product, resource or use of asset. The fully-allocated cost shall include a return on the utility's invested capital. The return on invested capital shall be no less than the utility's approved weighted average cost of capital.
- 2.3.4.3 Where a utility pays a cost-based price for a service, resource, product or use of asset that is obtained from an affiliate, the utility shall obtain from the affiliate, from time to time as required to keep the information current, a detailed breakdown of the affiliate's fully-allocated cost of providing the service, resource, product or use of asset.

2.3.4A *Qualifying Facilities*

- 2.3.4A.1 For a service, product, resource or use of asset that pertains exclusively to the ownership and operation of one or more qualifying facilities, fully-allocated cost-based pricing (as calculated in accordance with sections 2.3.4.1 and 2.3.4.2) may be applied between a utility that is a distributor and an affiliate in lieu of applying the transfer pricing provisions of section 2.3.3.1 or section 2.3.3.6, provided that the distributor complies with section 2.3.4.3.

2.3.5 Shared Corporate Services

- 2.3.5.1 For shared corporate services, fully-allocated cost-based pricing (as calculated in accordance with sections 2.3.4.1 and 2.3.4.2) may be applied between a utility and an affiliate in lieu of applying the transfer pricing provisions of section 2.3.3.1 or section 2.3.3.6, provided that the utility complies with section 2.3.4.3.