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December 17, 2018
Our File No. 20180016

Ontario Energy Board
2300 Yonge Street
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2018-0016 – Alectra 2019 Rates

We are counsel for the School Energy Coalition ("SEC"). Pursuant to Procedural Order #3 in this matter, this letter constitutes SEC's submissions on the remaining issues.

With the settlement filed and accepted during the oral hearing, the only remaining issues are ICM recovery for five capital projects in the Powerstream and Enersource rate zones.

Summary

In total, incremental capital spending of just over $30 million is proposed by the Applicant[1], on top of the $28.8 million of incremental capital approved by the Board in EB-2017-0024.

SEC wants to note at the outset that the Applicant appears to have listened to the Board in its ICM reasons in EB-2017-0024. Unlike the application last year, which had proposed 22 ICM projects, this Application proposes only five, and clearly there is an attempt by the Applicant to propose only projects that it believes fit within the logic of the Board's last decision.

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[1] $20.87 million for PRZ [Ex.2/3/10,p.11] and $9.35 million for ERZ [Ex. 2/4/11, p. 7].

In part as a result of that, SEC believes that two of the five projects, totalling $18.77 million, should be approved by the Board. The other three are more problematic, as set forth in our analysis below.

We note that the Applicant plans to come back in its 2020 application, next year, with proposals to change the Board's approach to its ICM approvals. Mr. Basilio, in his direct evidence, said the following[2]:

> *"…We continue to take exception to the onerous ICM materiality thresholds imposed in 2017-0024 that simply serve to create a material infrastructure deficit for Alectra customers over the rebasing deferral period.*
>
> *ICM was clearly presented as material to the Alectra business case, and that material was offered in MAADs' evidence and explored in depth, and we may explore this matter further in our 2020 application to be filed in 2019."*

However, notwithstanding that statement, the projects in the current Application appear to SEC to comprise two that qualify (subject to some questions the Board may wish to address), and three that may not qualify, but do not appear to be direct challenges to the Board's decision last year.

POWERSTREAM RATE ZONE

The Applicant plans to reduce the PRZ capital budget further in 2019, to $102.1 million[3] from the Board approved level in the last COS of $115.8. Powerstream underspent in 2017 relative to that Board-approved budget, and then dropped it 20% in 2018 to just $93.0 million. This year's capital plan increases it, but only to 88% of the Board-approved level. These reductions arise despite the increase in spending from the YRRTC project. Without that, the Powerstream capital budget would have been 71% of Board approved in 2018, and 77% of Board approved in 2019.

The Board commented in EB-2017-0024 on the relationship between Board approved capital budgets and actual spending, saying[4]:

> *"The OEB recognizes that because the ICM materiality threshold formula is based on the ratio between a utility's approved rate base and depreciation, it can lead to circumstances in which there is eligible ICM capital even though the capital spending in the year of the ICM is lower than the last OEB-approved capital spending. While this does not disallow an ICM outright, this is a consideration when determining whether a project is significant to operations, and outside of the base upon which the rates were derived."*

While SEC is concerned with the juxtaposition of big drops in capital spending with an application seeking incremental rate funding for capital, we are also conscious that capital spending control is a goal we would want all distributors to adopt. In the case of the PRZ, it

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2 Tr1:15.
3 Ex. 2/3/10, p. 4.
4 EB-2017-0024, p. 29.

would appear clear that two of the three ICM projects (the two road authority projects) are significant in size, and nothing similar to either of them was included in the rebasing capital budget. Therefore, we do not believe that the low capital spending levels disqualify those two projects proposed by the Applicant.

With respect to the third project, the Barrie TS work, we will comment on that further below.

YRRT Yonge Street

The largest ICM project, at $13.27 million, is the continuing requirement to move electrical infrastructure to accommodate the BRT Rapidways transit project in York Region. The Board approved $11.24 million in ICM funding for this project in EB-2017-0024, saying in part[5]:

> *"While a utility the size of Alectra Utilities is expected to undertake a certain amount of relocations each year, this project [YRRT] is clearly very material to its operations. The project was only identified after the PowerStream Custom IR application was filed."*

The project is fundamentally the same as that approved last year, and for the same reasons should be approved by the Board.

Two issues arise with respect to the YRRT suite of projects.

First, it is clear that this is a project – or a set of related projects - that will last over several years. The first work was done in 2014, and the current plans of the municipality extend until at least 2021[6]. Given the rapid growth in the area immediately north of Toronto, it is not unreasonable to think that the Applicant will be spending tens of millions of dollars per year moving infrastructure at YRRTC's behest for many years to come.

The context is that the utility doesn't have the freedom to plan the work to suit its own capital planning and other priorities. As the witnesses made clear in the oral hearing[7], the nature of the relationship with the transit authority means that the Applicant has challenges that it doesn't normally have to address in its capital projects. This means that timing and quantity of spending is less predictable, as evidenced by the 22% increase in net cost of the current work, just over the last year.

While the Applicant made very clear that they think their current estimate of the cost is a reliable one, SEC is not as confident as they are. The history of the budgets for this project shows[8] that they have been very unpredictable. This appears to have been largely although not completely the result of timing changes required by the transit authority[9].

[5] EB-2017-0024, Decision with Reasons, p. 35.
[6] See, e.g. K1.6, p. 4.
[7] See, e.g. Tr1:35-38.
[8] K1.6, p. 1.
[9] See J1.3 and J1.4.

There is nothing in the evidence that suggests that the Applicant can be faulted for any of this. Indeed, a reasonable observer could conclude that the Applicant has done a very good job of responding to the challenges and still keeping on top of a difficult project.

Last year, some parties proposed that the volatility of this project (or set of connected projects) be dealt with through some sort of deferral or variance account. The Board rejected that approach, saying[10]:

> *"As discussed in section 4.8 d) of this Decision, the OEB has adopted the ICM for incremental funding for capital projects. The OEB therefore does not approve a deferral account for this project, as suggested by some intervenors….*
>
> *4.8 (d)… The OEB does not approve the new deferral accounts. The OEB has adopted the ICM for incremental funding for capital projects... To adopt deferral accounts to address the funding of capital would make the ICM materiality threshold calculation meaningless because there would be two different funding mechanisms for incremental capital."*

SEC remains concerned, however, that the Applicant will continue to have responsibility for projects such as this, well into the future, involving tens of millions of dollars each year during the deferred rebasing period, not only in York Region, but also in Peel and Hamilton[11]. Given the high urban growth in the Alectra service territories, the transit project pressures on Alectra may be different from most other distributors. Thus, it may be that annual ICM applications – particularly when the amount spent will vary widely from what is forecast – are not the best approach, both in terms of providing the utility confidence that it will be funded, and proving the customers with a smooth rate trajectory.

Second, and an additional concern, there was considerable discussion in the hearing with respect to the level of contributions being provided by YRRTC in its capacity as the de facto road authority. While the Applicant had negotiated average contributions of 55.4% from YRRTC initially[12], changes and cost overruns resulted in $11.74 million higher spending overall, but contributions on that increase of only 40.8%. In one part of the project, for example, H2-E, the capital spend increased from $11.77 million to $11.96 million, but the contribution dropped from $7.24 million to $6.63 million[13].

The Applicant has provided copies of some purchase orders to assist the Board in understanding the changes, and has also provided some explanations, but the process by which the cost of these capital projects – which could easily total more than $100 million over time – is shared with the transit companies is still fairly opaque.

SEC submits that it would be worthwhile for the Board to have a broader view of this part of the Alectra capital plan. Given that the Applicant is in any case required to file its consolidated

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[10] EB-2017-0024, Decision with Reasons, p. 35, 72.

[11] Tr.1:109-110. See also Ex.2/4/11, p. 4, where Table 144 shows the $20 million of LRT spending expected in 2019-2022 for the ERZ.

[12] All of these figures derived from J1.1.

[13] We note that in another component, Y2-2, the spend went down while the contribution went up.

Distribution System Plan by April, 2019, SEC submits that it would be appropriate for the Board to review the entire YRRT multi-year spending (and similar spending in other rate zones) in the Applicant's next rate application. This would allow the Board to see the spending program as a whole, rather than in isolated and disjointed chunks, and to gain a better understanding of how the Applicant is protecting the customers by keeping their cost responsibility to a minimum.

SEC therefore submits that the Board should direct the Applicant to file, in its rate application for 2020, a detailed forecast of rapid transit projects in its service territory.

In addition, SEC proposes that the Board invite the Applicant to file, with that application, a proposal for multi-year funding of its rapid transit obligations that balances the needs of the utility with the needs and preferences of the customers. This may be, for example, a series of ICMs, or a program akin to an ACM, or some combination of those with deferral and variance accounts.

Subject to those comments, SEC submits that the YRRT project should be approved as filed.

Bathurst Road Widening

This project involves $5.5 million of capital to move overhead and underground assets on Bathurst Street in a like for like manner to accommodate the widening of that road.

As noted earlier, the Board has made clear that[14] *"a utility the size of Alectra Utilities is expected to undertake a certain amount of relocations each year".* On the other hand, the Board recognizes that certain relocation projects – of which the YRRT is an example – are larger and more impactful than others, and qualify for ICM treatment.

The Applicant provided a detailed list of road authority projects over the period 2013-2020[15]. What it shows is that Alectra is required in the PRZ to do an average of about a dozen substantial relocation projects a year for road authorities, plus other smaller ones. On average, the cost is a few hundred thousand dollars for each, although some get up well over a million. Road authority relocations are thus shown to be a normal part of the work of the utility, with an average cost (excluding YRRTC) of under $8 million annually. While the record does not include detailed lists of road authority projects in the ERZ, HRZ, and BRZ areas, it is likely that they would show a similar pattern.

Against this backdrop, the Bathurst Road Widening project will be the largest PRZ project other than YRRTC, and much larger than all of the other ninety-odd projects over the eight year period.

It is at least arguable that a utility the size of Alectra, with more than $300 million of annual capital additions[16], should be able to manage a $5.5 million road widening as part of its typical annual capital program for that purpose.

[14] EB-2017-0024, Decision with Reasons, p. 35.
[15] SEC-12.
[16] 2017 Electricity Distributors Yearbook.

However, given that this will be, when the $2.8 million expected for 2020 is included, the largest road authority project for Alectra other than YRRTC, SEC believes that it is appropriate to include this project for ICM recovery.

Barrie TS

The Applicant is seeking ICM funding for $2.09 million of capital spending to upgrade and reconfigure feeders and replace metering in conjunction with the Hydro One replacement of its Barrie TS, which is 56 years old[17].

SEC submits that the evidence shows the need for this project. The evidence also appears to demonstrate that the approach Alectra is taking is the most cost-effective.

That having been said, the issue in this proceeding not whether the work should be done, but whether incremental funding for this project is appropriate.

In this context, SEC believes that this project should not be approved for ICM recovery because it is not significant relative to the overall Alectra capital budget. Alectra current expects $264 million in capital spending in 2019[18]. The Board has noted that the materiality of any given project is assessed by reference to the overall capital budget, describing the analysis as follows[19]:

> *"The OEB adopted a second, project-specific materiality test in the Funding of Capital Report, as identified in a decision for Toronto Hydro…*
> *This second test is whether a specific project is significant in comparison to the overall capital budget for Alectra Utilities, not individual rate zones…*
> *The OEB is guided by the words "significant influence on the operation of the distributor" and "minor expenditure in comparison to the overall capital budget" in assessing the project-specific materiality of each project."*

SEC submits that the Barrie TS project is not significant relative to the Alectra capital budget. Further, given the big drop in capital spending in the PRZ from 2017 Board approved to the current Application, SEC believes Alectra should be able the manage this expenditure without incremental funding.

ENERSOURCE RATE ZONE

In contrast to the PRZ, Alectra is planning to increase its capital spending in the ERZ from $55.5 million in 2018 to $74.3 million in 2019, a 34% increase[20]. There is no relevant Board-approved level, because the last rebasing for Enersource was in 2013. About a third of the increase relates to an LRT project starting in 2019, and covering at least the 2019-2022 period. The remainder of the increase appears to be in part from a new Subtransmission Renewal and

[17] Ex.2/3/10, p. 19.
[18] EB-2018-0014, Attachment 14, p. 4. This appears to be cash expenditures, not capital additions. A forecast of 2019 capital additions for all of Alectra does not appear to be on the record in this proceeding.
[19] EB-2017-0024, Decision with Reasons, p. 22-26.
[20] All of these figures from Ex.2/4/11, p. 4-6.

Expansion initiative (about $4 million), and in part from step increases (about $8 million in total) in the Subdivision Renewal, Municipal Substation Upgrades, and General Plant programs that appear to be intended to continue indefinitely.

ICM treatment is sought for two projects – Rometown Overhead System Rebuild, and the Transformer Catch-up Program. SEC submits that neither should be approved for additional rate increases. Both should be managed within the existing Alectra capital budget, and paced for that purpose.

Rometown Overhead System Rebuild

This is a $3.2 million project to replace about 200 poles and related assets because the feeders in this defined area were identified as being in unusually poor condition[21].

SEC submits that this is a normal subdivision rebuild, not dissimilar from projects carried out by the Applicant every year in all of its service territories. The Board has made clear that projects that are part of typical capital programs are not eligible for ICM treatment, saying[22]:

> *"ICM projects do need to be different in kind from those that are carried out through typical base capital programs."*

In EB-2017-0024, the Board denied recovery of eight subdivision rebuild/renewal projects, in part on this basis[23].

In this proceeding, SEC invited[24] the Applicant to distinguish the Rometown project, asking "*Please explain how the Rometown project differs from other subdivision rebuild projects*." It is submitted that, given the opportunity to do so, the Applicant did not demonstrate that Rometown is different in any fundamental way. Instead, the Applicant simply reiterated their direct evidence that the assets had deteriorated, and are "targeted for replacement".

With respect, the Applicant misses the point. The question is not whether the Rometown project should be done. Subdivision assets often deteriorate over time, and that is precisely when they have to be replaced. That is true for most subdivision rebuild projects. This one is no exception, and based on the evidence it is likely the Applicant should proceed with this project.

But the question the Board is faced with in this proceeding is whether there should be extra funding provided for this project. SEC submits that this is a project – much like the eight last year – that is part of a typical annual capital program.

At $3.2 million, it is larger than some, but it is not so significant in the context of the Alectra capital budget that it needs special treatment. In the ERZ, the subdivision renewal budget has for years been over $10 million a year, and for Alectra as a whole, that figure is likely in the

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[21] Ex. 2/4/1, p. 14-15.
[22] EB-2017-0024, Decision with Reasons, p. 27.
[23] At pp. 47-56 of the Decision.
[24] SEC-22.

range of $50 million annually[25]. Part of the responsibility of utility management is to prioritize things like subdivision rebuilds, and based on the evidence it is likely that Rometown, given its condition, would need to be prioritized. That does not mean, however, that more money is required. In the normal course, it should mean that Rometown is done, within the normal capital budget, ahead of other, less urgent projects.

SEC therefore submits that this project should not be approved for ICM funding because it is not different in kind from the projects normally carried out in this annual capital program. Given the opportunity to differentiate this project, the Applicant failed to do so.

Transformer Catch-up Program

The Applicant proposes to spend a further $7.5 million in the last year of its program to get rid of leaky and older transformers, a kind of catch-up program over and above their normal transformer replacement program.

The Board approved ICM funding for $8.45 million of capital spending on this program last year, but had this to say at the time[26]:

> *"The OEB finds that there is such a material change to the program that it is neither "typical" nor "ongoing" in 2018 from the program approved by the OEB for 2013 rates. Therefore for 2018, the OEB has determined that while this is still a transformer replacement program, it is not a typical ongoing capital program. The OEB expects that this project will evolve to be a typical ongoing capital program and may not be eligible for any additional incremental funding in subsequent years."*

We note that the Applicant plans to reduce the spending for transformer replacements starting in 2020 and beyond[27].

SEC believes that the Applicant, having been warned by the Board that ICM treatment may not be available after 2018, should have rethought the pacing of the program. Rather than spending $8.6 million in 2019, then $1.8 million, $1.6 million, and $1.4 million in the three subsequent years, it should have paced it to spend that $13.4 million (if that's what is needed) over those four years in a more balanced way. This would allow the utility to manage the program within its existing capital budget, and not come back to ask for a further rate increase.

Further, SEC submits that, if the Board denies ICM treatment, this is exactly what Alectra will do. Given their statements that this catch-up is required, we would assume that the work would be done, but over those four years the budget would be $3.35 million per year, well within the range that can be managed.

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[25] This figure is not in the record, so it is a guess, extrapolating from ERZ and past filings for the merger partners. The category Subdivision Rebuilds is not used consistently in all four rate zones.
[26] EB-2017-0024, Decision with Reasons, p. 58.
[27] Ex.2/4/11, p. 5, Table 145.

SEC therefore submits that the Transformer program should not be approved for ICM treatment in 2019.

Conclusion

Approvals. SEC reiterates that Alectra has in fact listened to the Board's direction in EB-2017-0024, and as a result has filed an Application this year in which most of its ICM funding can be approved within the parameters of the Board's guidance.

Three projects – while good projects that should probably proceed – should not be funded under ICM. Two of them can be managed easily as proposed within the Alectra capital budget, and should be. The third can be paced better, with the result that it too can be managed within the normal capital budget.

Scope of 2020 Application. SEC notes that the 2020 Alectra application, to be filed in 2019, will include the combined Distribution System Plan, and consideration of the impacts of changes in accounting policy. Alectra has also signalled that it will seek to have the Board re-think its ICM parameters, at least as they apply to Alectra. SEC has proposed, given the already known scope of that proceeding, that the Board also consider the best way to deal with Alectra's substantial multi-year capital spending requirements associated with rapid transit projects. In this respect, Alectra may be somewhat unique, given its fast urban growth and therefore high level of new rapid transit activity.

Costs. SEC submits that it has participated responsibly in this proceeding with a view to assisting the Board, and the Applicant should be ordered to reimburse SEC's reasonably incurred costs in so doing.

All of which is respectfully submitted.

Yours very truly,
SHEPHERD RUBENSTEIN PROFESSIONAL CORPORATION

Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties