

Alectra Utilities Corporation

**Application for electricity distribution rates and other
charges effective January 1, 2020**

PROCEDURAL ORDER NO. 1

July 9, 2019

Alectra Utilities Corporation (Alectra Utilities) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on May 28, 2019 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) seeking approval for changes to its electricity distribution rates to be effective January 1, 2020. The application also includes a proposal for additional capital funding (M-Factor) and a request to reverse the outcome of a prior OEB decision on capitalization policy.

Intervention Requests

A Notice of Hearing was issued on June 18, 2019. Each of the Association of Major Power Consumers in Ontario (AMPCO), Building Owners and Managers Association (BOMA), Consumers Council of Canada (CCC), Distributed Resource Coalition (DRC), Energy Probe Research Foundation (Energy Probe), School Energy Coalition (SEC), Max Aicher (North America) Ltd. and Max Aicher (North America) Bloom Mill (collectively, MANA) and Vulnerable Energy Consumers Coalition (VECC) applied for intervenor status and cost eligibility.

Alectra Utilities objected to MANA's request for intervenor status and cost eligibility. Alectra Utilities submitted that MANA had not demonstrated why it should be eligible for cost awards under the OEB's *Practice Direction on Cost Awards* and that the OEB should consider whether MANA's interests, as a steel manufacturer, are represented by AMPCO.

MANA responded that it is not a member of AMPCO and its interests are not represented by AMPCO. With respect to cost eligibility, MANA noted that "the burden referred to in 3.02 is a burden to establish that the criteria set out in 3.03 are met, not a

burden to come up with other rationalizations”. MANA submitted that as a customer of Alectra Utilities it has a direct interest in this application. MANA further noted that it is in the public interest to hear from Alectra Utilities’ customers and that the cost of participation should not discourage participation. MANA further stated that the outcome of the proceeding will “significantly affect MANA’s competitiveness in the Canadian steel industry, and have a direct impact on MANA’s consideration of whether or not to expand its operations or facilities in the Alectra territory.”

Alectra Utilities also objected to DRC’s request noting that DRC had not demonstrated that it has a substantial interest in this application. DRC has advised the OEB that it intends to file a reply to Alectra Utilities’ objection this week. The OEB will decide on the DRC’s intervention and cost eligibility request after the DRC’s reply is filed.

The OEB is satisfied that MANA has a substantial interest in the proceeding within the meaning of Rule 22 of the OEB’s *Rules of Practice and Procedure* and is approved as an intervenor. The OEB also finds that MANA is eligible to apply for cost awards under the OEB’s *Practice Direction on Cost Awards*. The OEB notes that as a customer of Alectra Utilities that may be affected by the outcome of the proceeding MANA represents its direct interests and is therefore eligible to apply for cost awards pursuant to the OEB’s *Practice Direction on Cost Awards*.

In addition to MANA, AMPCO, BOMA, CCC, Energy Probe, SEC, and VECC also are approved as intervenors and are eligible to apply for an award of costs under the OEB’s *Practice Direction on Cost Awards*. The list of parties in this proceeding is attached as Schedule A to this Procedural Order.

The OEB intends to make cost awards available only in relation to Alectra Utilities’ M-Factor proposal and request to reverse the outcome of the prior OEB decision on capitalization policy.

Cost eligible intervenors should be aware that the OEB will not generally allow the recovery of costs for the attendance of more than one representative of any party, unless a compelling reason is provided when cost claims are filed.

Confidentiality

Pursuant to the OEB’s *Rules of Practice and Procedure* (OEB Rules) and the OEB’s *Practice Direction on Confidential Filings*, Alectra Utilities has requested confidential treatment for certain information in the following documents:

- i. Stations Capacity Investment Summary (Exhibit 4, Tab 1, Schedule 1, Appendix A)
- ii. Corresponding Business Cases (Exhibit 4, Tab 1, Schedule 1, Appendix B).
- iii. Alectra Value Framework Implementation Document (Exhibit 4, Tab 1, Schedule 1, Appendix L)

In accordance with the OEB's *Practice Direction on Confidential Filings*, Alectra Utilities has provided reasons for the confidentiality request.

At this time, provision will be made for the filing of submissions on Alectra Utilities' request for confidentiality. Counsel and consultants for intervenors that wish to make submissions on the request for confidentiality shall be granted access to the un-redacted documents provided they have executed the OEB's [Declaration and Undertaking](#). The signed Declaration and Undertaking shall be filed with the OEB and a copy shall be delivered to Alectra Utilities. If Alectra Utilities objects to a Declaration and Undertaking, the objection shall be filed with the OEB and copied to the relevant party within 5 days from the receipt of the Declaration and Undertaking. The relevant party shall file its reply, if any, with the OEB and deliver a copy to Alectra Utilities, within 5 days from the receipt of the objection.

Process for Hearing

The OEB has determined that it will process the three elements of the application: namely, IRM, M-Factor and capitalization policy, in different stages.

The OEB will hear the standard IRM elements of the application separate from other aspects of the application. The OEB intends to process the IRM elements of the application and the request related to two deferral accounts, by way of a written hearing. The IRM elements include (i) the Price Cap adjustment, (ii) review and disposition of Group 1 deferral and variance account balances, (iii) retail transmission service rates, (iv) shared tax adjustments, (v) lost revenue adjustment mechanism variance account, (vi) rate design for residential customers, (vii) a proposed Customer Service Rules-related Lost Revenue Variance Account, (viii) a proposed Conservation Demand Management Severance Deferral Account and (ix) bill impacts (excluding impacts resulting from M-Factor and capitalization policy).

The OEB will convene an oral hearing in relation to the M-Factor proposal. The M-Factor elements include issues related to the M-Factor proposal, Distribution System Plan and related deferral accounts (Capital Investment Variance Account and Externally Driven Capital Variance Account).

The OEB will determine further steps regarding capitalization policy elements of the application after considering the preliminary questions set out below.

Capitalization Policy

In this application, Alectra Utilities asks that (i) “the OEB reverse the outcome of its previous decision to create the capitalization deferral accounts for each of the Brampton, Enersource and Horizon Utilities [rate zones] ...” and (ii) subject to the OEB’s determination of the first issue that “the OEB determine the basis for recording balances in the capitalization deferral accounts and the treatment of the ESM for the Horizon Utilities rate zone, in light of the capitalization policy change.”¹

These requests relate to Alectra Utilities’ earlier application for 2018 rates.² In a decision on that application, the OEB ordered Alectra Utilities to establish deferral accounts to record the difference between the revenue requirement calculated using the pre-merger capitalization policies and the revenue requirement calculated with the new capitalization policy for the Horizon, Enersource and Brampton rate zones.³ Alectra Utilities had argued that the OEB should order the closure of the capitalization related deferral accounts and the reversal of any amounts recorded in those accounts. The OEB rejected the request to close the accounts and directed Alectra Utilities to “file a proposal for disposition of the deferral accounts in its application for 2019 rates for Brampton and Enersource [rate zones].”⁴

In the 2019 rates application, Alectra Utilities proposed to clear the capitalization related deferral account balances on an annual basis.⁵ Given submissions of parties, the OEB determined that “it will not clear the balances in the Enersource and Brampton rate zones in this 2019 rate proceeding so that additional options can be considered in the 2020 rates proceeding.”⁶

In the current application for 2020 rates, Alectra Utilities is asking the OEB to (i) reconsider its previous decision to create the capitalization related deferral accounts for each of the Brampton, Enersource and Horizon rate zones and (ii) no longer require the use of deferral accounts or the future disposition of the balances currently recorded in those accounts⁷.

¹ Alectra Utilities, application for 2020 rates, EB-2019-0018, Ex 2/Tab 1/Schedule 5, p 2.

² EB-2017-0024

³ Decision and Partial Accounting Order, dated December 20, 2017, EB-2017-0024.

⁴ Decision and Order (Revised), dated April 6, 2018, EB-2017-0024, p. 82. As the Horizon rate zone was still in a Custom IR framework through 2019, there are to be no entries in the Horizon capitalization related deferral accounts

⁵ EB-2018-0016

⁶ Decision on Confidentiality and Procedural Order No. 3, dated November 8, 2018, EB-2018-0016, p. 2.

⁷ Alectra Utilities, application for 2020 rates, EB-2019-0018, Ex 2/Tab 1/Schedule 5, p.2

Where a person seeks to vary, suspend or cancel a final order or decision by the OEB, this is done by a way of a motion to review.⁸ The OEB's preliminary view is that Alectra Utilities' request to reverse the outcome of the OEB's decision to create the capitalization related deferral accounts constitutes a motion to vary pursuant to Rule 40.02 of the OEB Rules. Before making a final determination, OEB is providing an opportunity for Alectra Utilities, intervenors, and OEB staff to provide submissions on the following question:

Does Alectra Utilities' request to reverse the outcome of the OEB's decision to create the capitalization related deferral accounts for the Enersource, Brampton and Horizon rate zones, constitute a motion to vary pursuant to Rule 40.02 of the OEB Rules?

In the event that the OEB confirms that the reversal request constitutes a motion to vary, the OEB will consider the request in two stages. The first stage involves answering the threshold question of whether the matter should be reviewed on the merits. If the threshold test is met, the matter then proceeds to the second stage and the merits of the request are determined. At this time, the OEB is providing an opportunity for Alectra Utilities, intervenors, and OEB staff to provide submissions on the first of these two stages:

If Alectra Utilities' request constitutes a motion to vary, has the threshold test been met such that the request should be reviewed on the merits?

Once the OEB's has issued its decision related to the above questions, further procedural steps in respect of the capitalization policy issue and related issues, such as the earnings sharing mechanism for Horizon rate zone and Horizon rate zone's Capital Investment Variance Account will be confirmed.

Presentation Day

Alectra Utilities requested an opportunity to present its application prior to the interrogatory stage. Alectra Utilities requested that questions be limited to the OEB Panel as intervenors and OEB staff will have an opportunity to ask interrogatories. The OEB is making provision for a Presentation Day. Alectra Utilities shall limit its presentation to issues related to the M-Factor proposal. The presentation will be transcribed. The OEB Panel will determine the format of the Presentation Day.

It is necessary to make provision for the following matters related to this proceeding. Further procedural orders may be issued by the OEB.

⁸ See OEB Rules, Rules 40-43.

IT IS THEREFORE ORDERED THAT:**Confidentiality**

1. OEB staff and intervenors shall file any written submissions on Alectra Utilities' confidentiality requests with the OEB and serve them on all parties by **July 12, 2019**.
2. Alectra Utilities shall file any written reply submission with the OEB and serve it on all parties by **July 17, 2019**.

Capitalization Policy

3. Alectra Utilities shall file written submissions in relation to the following questions with the OEB and serve them on all parties by **July 19, 2019**:

Does Alectra Utilities' request to reverse the outcome of the OEB's decision to create the capitalization related deferral accounts for the Enersource, Brampton and Horizon rate zones, constitute a motion to vary pursuant to Rule 40.02 of the OEB Rules?

If Alectra Utilities' request constitutes a motion to vary, has the threshold test been met such that the request should be reviewed on the merits?

4. OEB staff and intervenors shall file any written submissions in relation to the above question with the OEB and serve them on all parties by **July 29, 2019**.
5. Alectra Utilities shall file any written reply submission in relation to the above questions with the OEB and serve it on all parties by **August 9, 2019**.

IRM Elements

6. OEB staff and intervenors shall request any relevant information and documentation from Alectra Utilities on the IRM elements of this application that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **July 29, 2019**.
7. Alectra Utilities shall file complete written responses to all interrogatories on the IRM elements of this application with the OEB and serve them on all parties by **August 16, 2019**.
8. Alectra Utilities may file a written argument-in-chief on the IRM elements with the OEB and serve it on all parties by **August 26, 2019**.

9. OEB staff and intervenors shall file any written submissions on the IRM elements of this application with the OEB and serve them on all parties by **September 13, 2019**.
10. Alectra Utilities shall file any written reply submission on the IRM elements of this application with the OEB and serve it on all parties by **September 23, 2019**.

M-Factor

11. Alectra Utilities shall make a presentation on its M-Factor proposal to the OEB. The transcribed presentation on the M-Factor proposal will be held on **August 7, 2019** starting at 9:30 a.m. 2300 Yonge Street, 25th floor, Toronto.
12. OEB staff and intervenors shall request any relevant information and documentation on the M-Factor proposal from Alectra Utilities that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **August 16, 2019**.
13. Alectra Utilities shall file complete written responses to all interrogatories on the M-Factor proposal with the OEB and serve them on all parties by **September 13, 2019**.
14. Following its review of Alectra Utilities' responses to interrogatories, the OEB will determine if a technical conference is required on the M-Factor proposal. If required, a transcribed technical conference will be held on **October 7, 2019** starting at 9:30 a.m. in the OEB's Offices at 2300 Yonge Street, 25th floor, Toronto to clarify any matters arising from the interrogatories only. If required, the technical conference will continue on **October 8, 2019**. OEB staff and intervenors intending to participate are to notify Alectra Utilities, and copy all parties, of the topic areas for questioning by **September 27, 2019**.
15. The oral hearing on the M-Factor proposal will begin on **October 15, 2019** starting at 9:30 a.m., at 2300 Yonge Street, 25th floor, Toronto. If necessary, the oral hearing will continue on **October 17, 2019** and **October 18, 2019**.
16. Alectra Utilities shall file a written argument-in-chief on the M-Factor proposal with the OEB and serve it on all parties by **November 1, 2019**.
17. OEB staff and intervenors shall file any written submissions on the M-Factor proposal with the OEB and serve them on all parties by **November 15, 2019**.

18. Alectra Utilities shall file any written reply submission on the M-Factor proposal with the OEB and serve it on all parties by **November 25, 2019**.

All filings to the OEB must quote the file number, EB-2019-0018, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.oeb.ca/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a USB memory stick in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Registrar at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Katherine Wang at katherine.wang@oeb.ca and OEB Counsel, Lawren Murray at lawren.murray@oeb.ca.

ADDRESS

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Attention: Registrar
Email: boardsec@oeb.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **July 9, 2019**

ONTARIO ENERGY BOARD

By delegation, before: Christine E. Long

Original signed by

Christine E. Long
Registrar
Office of the Registrar

SCHEDULE A
LIST OF APPLICANT AND INTERVENORS
ALECTRA UTILITIES CORPORATION
EB-2019-0018
DATED: JULY 9, 2019

**Alectra Utilities Corporation
EB-2019-0018
APPLICANT & LIST OF INTERVENORS**

July 09, 2019

APPLICANT

Rep. and Address for Service

Alectra Utilities Corporation

Indy Butany-DeSouza

Vice President, Regulatory Affairs
Alectra Utilities Corporation
2185 Derry Road West
Mississauga, ON L5N 7A6

Tel: 905-821-5727

Fax: 905-522-0119

regulatoryaffairs@alectrautilities.com

APPLICANT COUNSEL

Charles Keizer

Torys LLP

79 Wellington St. W., 30th Floor
Box 270, TD South Tower
Toronto ON M5K 1N2

Tel: 416-865-7512

Fax: 416-865-7380

ckeizer@torys.com

INTERVENORS

Rep. and Address for Service

**Association of Major Power
Consumers in Ontario**

Shelley Grice

Consultant

46 Scarborough Road
Toronto ON M4E 3M5

Tel: 647-880-9942

Fax: 416-260-0442

shelley.grice@rogers.com

**Alectra Utilities Corporation
EB-2019-0018
APPLICANT & LIST OF INTERVENORS**

July 09, 2019

**Building Owners and
Managers Association
Toronto**

Thomas Brett

Partner
Fogler, Rubinoff LLP
77 King Street West
Suite 3000
Toronto ON M5K 1G8
Tel: 416-941-8861
Fax: Not Provided
tbrett@foglers.com

Marion Fraser

President
Fraser & Company
65 Harbour Square
Suite 1005
Toronto ON M5J 2L4
Tel: 416-941-9729
Fax: Not Provided
marion.fraser@rogers.com

**Consumers Council of
Canada**

Julie Girvan

Consultant
Consumers Council of Canada
J. E. Girvan Enterprises
62 Hillside Ave. East
Toronto ON M4S 1T5
Tel: 416-322-7936
Fax: 416-322-9703
jgirvan@uniserve.com

**Alectra Utilities Corporation
EB-2019-0018
APPLICANT & LIST OF INTERVENORS**

July 09, 2019

**Energy Probe Research
Foundation**

Tom Ladanyi

TL Energy Regulatory Consultants Inc.
41 Divadale Drive
Toronto ON M4G 2N7
Tel: 416-423-3685
Fax: Not Provided
tom.ladanyi@rogers.com

Roger Higgin

SPA Inc.
15 Malabar Place
Toronto ON M3B 1A4
Tel: 416-391-0738
Fax: Not Provided
spainc@rogers.com

**Max Aicher (North America)
Ltd. And Max Aicher
(North America) Bloom Mill**

Adam Chisholm

McMillan LLP
Brookfield Place, Suite 4400
181 Bay Street
Toronto ON M5J 2T3
Tel: 416-307-4209
Fax: 416-865-7048
adam.chisholm@mcmillan.ca

**Alectra Utilities Corporation
EB-2019-0018
APPLICANT & LIST OF INTERVENORS**

July 09, 2019

**Max Aicher (North America) Ltd.
And Max Aicher
(North America) Bloom Mill**

Mike Richmond
McMillan LLP
Brookfield Place, Suite 4400
181 Bay Street
Toronto ON M5J 2T3
Tel: 416-865-7832
Fax: 416-865-7048
Mike.richmond@mcmillan.ca

**Max Aicher (North America)
Ltd.**

Walter Sommerer
Chief Executive Officer
Max Aicher (North America) Ltd.
855 Industrial Drive
Hamilton ON L8L 0B2
Tel: 289-426-5670
Fax: Not Provided
w.sommerer@managroup.ca

Bloom Mill
Chief Executive Officer
1155 Industrial Drive
Hamilton ON L8L 0B2
Tel: 289-426-5670
Fax: Not Provided
w.sommerer@managroup.ca

**Alectra Utilities Corporation
EB-2019-0018
APPLICANT & LIST OF INTERVENORS**

July 09, 2019

School Energy Coalition

Wayne McNally

SEC Coordinator
Ontario Education Services Corporation
c/o Ontario Public School Boards Association
439 University Ave. 18th Floor
Toronto ON M5G 1Y8
Tel: 416-340-2540
Fax: 416-340-7571
wayne.mcnally@oesc-cseo.org

Jay Shepherd

Counsel
Shepherd Rubenstein Professional Corporation
2200 Yonge St.
Suite 1302
Toronto ON M4S 2C6
Tel: 416-804-2767
Fax: 416-483-3305
jay@shepherdrubenstein.com

Mark Rubenstein

Counsel
Shepherd Rubenstein Professional Corporation
2200 Yonge St.
Suite 1302
Toronto ON M4S 2C6
Tel: 647-483-0113
Fax: 416-483-3305
mark@shepherdrubenstein.com

**Alectra Utilities Corporation
EB-2019-0018
APPLICANT & LIST OF INTERVENORS**

July 09, 2019

**Vulnerable Energy
Consumers Coalition**

John Lawford

Counsel, Regulatory and Public Policy
Public Interest Advocacy Centre
2-285 McLeod Street
Ottawa ON K2P 1A1
Tel: 613-562-4002 Ext: 25
jlawford@piac.ca

**Vulnerable Energy
Consumers Coalition**

Mark Garner

Project Manager
Consultant
647 Broadway Avenue
Toronto ON M4G 2S8
Tel: 647-408-4501
markgarner@rogers.com

Bill Harper

Consultant
107 Baker Ave.
Richmond Hill On L4C 1X5
Tel: 416-348 0193
bharper.consultant@bell.net

SCHEDULE B

CASE SCHEDULE

ALECTRA UTILITIES CORPORATION

EB-2019-0018

DATED: JULY 9, 2019

Schedule B
Case Schedule

| | <u>Procedural Steps</u> | <u>Dates</u> |
|-----------------------------|----------------------------------------------------------|---------------------|
| Confidentiality | OEB Staff and Intervenor Submissions on confidentiality | 12-Jul-19 |
| | Alectra Utilities' reply submission on confidentiality | 17-Jul-19 |
| | | |
| Preliminary Question | Alectra Utilities' written Submission | 19-Jul-19 |
| | OEB Staff & Intervenor Submission | 29-Jul-19 |
| | Alectra Utilities' Reply Submission | 9-Aug-19 |
| | | |
| IRM Elements | Intervenor and Staff IRs on IRM Filed | 29-Jul-19 |
| | Alectra Utilities' Responses to IRM Interrogatories | 16-Aug-19 |
| | Alectra Utilities' argument-in-chief | 26-Aug-19 |
| | OEB Staff and Intervenor Submissions Filed | 13-Sep-19 |
| | Alectra Utilities' Reply Submission Filed | 23-Sep-19 |
| | | |
| M-Factor | Presentation Day | 7-Aug-19 |
| | Intervenor and OEB Staff Interrogatories on M-Factor | 16-Aug-19 |
| | Alectra Utilities' Responses to M-Factor Interrogatories | 13-Sep-19 |
| | Technical Conference | 7-Oct-19 |
| | Oral Hearing (Oct 15, 17 & 18) | 18-Oct-19 |
| | Argument-in-Chief | 1-Nov-19 |
| | OEB Staff and Intervenor Submissions Filed | 15-Nov-19 |
| | Alectra Utilities' Reply Submission Filed | 25-Nov-19 |