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File 96407

July 29, 2019

VIA COURIER and RESS FILING

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

Dear Ms. Walli,

Re: EB-2019-0018 – Alectra Rates Application

Attached please find the submissions of the Power Workers' Union in respect of the above reference matter.

Yours very truly,
PALIARE ROLAND ROSENBERG ROTHSTEIN LLP


Richard P. Stephenson
RPS:pb

Encl.

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Act, 1998*, being Schedule B to the *Energy Competition Act, 1998*, S.O. 1998, c. 15;

AND IN THE MATTER OF an Application by Alectra Utilities Corporation to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity as of January 1, 2020.

SUBMISSIONS OF THE POWER WORKERS' UNION

ON PRELIMINARY QUESTIONS REGARDING CAPITALIZATION POLICY

1. These submissions are filed by the Power Workers' Union ("PWU") pursuant to the provisions of Procedural Order No. 1, issued July 9, 2019.
2. The PWU adopts and supports the submission filed by Alectra regarding this matter.
3. In addition, the PWU submits that, even if the EB-2017-0024 and EB-2018-0016 decisions could be interpreted as a final decisions with respect to the disposition of the capitalization related deferral accounts (the "Deferral Accounts"),¹ at most all that was "final" about those decisions was the disposition of the Deferral Accounts in respect of the rate years governed by those cases (i.e. 2018 and 2019).
4. In the present case, Alectra is not seeking to re-open the Board's disposition decisions of the Board in respect of 2018 and 2019. If it were, the issue of whether Alectra was seeking to review and vary a prior decision might arise. However, what

¹ For the reasons submitted by Alectra, the PWU submits that (a) they were not final decisions; and (b) they did not decide on the disposition of the Deferral Accounts.

Alectra is seeking in the present case is an order regarding the disposition of the Deferral Accounts *in 2020*.

5. Even assuming the issue that Alectra was seeking determined in the present case was the same as in a prior case (which it is not) it is not a "review and variance" of a prior Board decision for a party to renew an argument that it had made (unsuccessfully) in a prior case, in respect of a prior rate year.

6. The PWU submits the following illustrative example is relevant. In a case where the Board is setting rates for a utility in respect of 2018, an intervenor seeks to have the Board disallow a category of costs as imprudent. The Board rejects the argument. The same intervenor renews the same argument regarding the same category of costs the following year, in the utility's next rate case, dealing with rates for 2019. The intervenor may have a challenge in persuading the Board as to the merit of its position in light of the previous decision. However, the intervenor is in no sense seeking to review or vary the prior decision. To the contrary, the Board may or may not consider that argument to have merit, depending the circumstances as they exist at the time of that subsequent proceeding.

7. The same logic applies here. In 2018, the time may not have been ripe for the Board to make a disposition of the Deferral Accounts. That does not mean that the time is not now ripe to do so.

All of which is respectfully submitted.

July 29, 2019

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