



BY EMAIL and RESS

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Our File No. 2019-0018

Ontario Energy Board
2300 Yonge Street
27th Floor
Toronto, Ontario
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Attn: Kirsten Walli, Board Secretary

Dear Ms. Walli:

Re: EB-2019-0018 – Alectra Utilities – IRM Issues

We are counsel for the School Energy Coalition. Pursuant to Procedural Order #1 dated July 9, 2019, this letter sets out SEC's submissions with respect to the IRM issues.

SEC is mindful of the Board's determination in PO #1 that the IRM issues are not eligible for cost awards. We note that this is sometimes done with respect to the mechanistic or non-controversial aspects of an application, and SEC generally does not get involved in those aspects. In this case, however, there are four IRM issues that are not mechanistic in nature, and in respect of which customers have a particular point of view that should be heard. These submissions are limited to those four issues.

As well, we note that OEB Staff has provided the Board with thorough submissions on the IRM issues, including the four that concern us. We have reviewed those submissions before drafting these. As the Board will see below, that has simplified these submissions.

Customer Service Rules-related Lost Revenue Variance Account

SEC has reviewed the detailed submissions of OEB Staff with respect to this proposed account, and agrees with those submissions.

Conservation and Demand Management Severance Variance Account

SEC does not support the position of OEB Staff on this account. In our submission, customers should not be responsible in rates for the wind-down costs of the Alectra CDM activities.

We say this for three reasons:

1. This program is funded by IESO, and IESO has made provision for IESO to reimburse the utility for wind-down costs. The utility must make “commercially reasonable” efforts to minimize those costs. In these circumstances, it would appear to SEC that IESO is continuing its responsibility for the reasonable costs of this program, including the wind down. To the extent that Alectra has costs that are not reimbursed by IESO, in our view that can only be because the entity with statutory responsibility to fund the program has determined that the costs are not reasonable. The OEB should not be put in a position where it is required to second guess the funding agency after the funding agency has made a determination with respect to reimbursable expenses.
2. The OEB has had no say in the expenditures for this program, or the commitments made by the Applicant related to CDM. Customers have had no input into those past commitments, or in managing the risks of stranded costs or assets. All of these aspects of the program were managed by IESO and the Applicant. It is inappropriate for the customers to be left holding the bag for any costs of the program that were not fully managed by IESO and the Applicant. One of the natural results of being excluded from the process of incurring these costs is that the ratepayers should not be responsible for paying any of those costs.
3. The profits generated by Alectra on CDM programs were at all times for account of the shareholders, not the customers. In the same way as “benefits follow costs”, so too costs should follow benefits. The shareholders of Alectra got the profits from the program, and must accept the risks at the same time. One of those risks was always termination of the program, with resulting stranded costs and assets. One of the reasons the utilities were allowed a profit component in this program is that they were taking risks.

SEC therefore submits that the proposed CMDSVA should not be allowed.

Earnings Sharing Mechanism

Alectra has proposed an ESM based on a weighted average ROE, using the most recent Board-approved rate base amounts for each of the rate zones.

SEC has the following submissions:

1. Alectra has proposed to maintain separate rates for a number of years, despite the practical reality that costs will become less and less specific to the rate zones over time. If there are separate rates, then *prima facie* there should be separate earnings sharing for each of the rate zones. The customers in the Horizon Rate Zone, for example, are making a given contribution to the revenue and profits of Alectra. If that results in overearning relative to the costs fairly allocable to Horizon RZ customers, then it is reasonable that those customers

will share in those overearnings. If Powerstream RZ customers, for example, are not contributing to that overearning, they should not share. To achieve this fair result can only be done if earnings are calculated separately by rate zone.

2. The concept of a weighted average ROE is inherently unfair. The rates for each rate zone have a particular ROE built in. Comparing actual earnings for each rate zone to an ROE that is not built into those rates is a benefit to customers in some rate zones, and a disbenefit to customers in other rate zones. What it really amounts to is that for some customers they will share in overearnings at 350 basis points, while for others they will share in overearnings at 250 basis points, relative to their own rates.
3. We are unable to see how the weighting of ROE by last approved rate base is correct. The predecessor companies have different years of approved rate base, so the rate base amounts of each predecessor are not comparable. The more recent the rebasing of a predecessor, the higher the rate base and therefore the higher the weighting to that company's ROE. If the predecessors had all been rebased in the same year, weighting by rate base (if a combined ROE is to be used) might be reasonable. In this case, it is comparing apples to oranges.
4. SEC fundamentally disagrees with the 300 basis point deadband proposed by Alectra. Although we are aware that it is a number used in the Board's policy, we are also aware that, after a number of years of experience, it is clear that utilities will not earn more than 300 basis points above allowed ROE. This is a very substantial level of overearnings, and so far has not been seen in LDCs with ESMs. In part, this may be because the high threshold incents utilities to overspend, particularly on capital, where long term profits are likely to be above the deadband. As long as they can keep within the 300 basis points, they can keep all of their excess profits, and build additional rate base to generate further profits, all at the expense of the customers. SEC submits that a deadband of 100 basis points is more appropriate in the case of Alectra.
5. SEC therefore submits that there should be an asymmetrical ESM calculated for each rate zone, based on the approved ROE currently baked into rates for that rate zone. The deadband should be 100 basis points, which is more than sufficient for Alectra to recover all of its transaction and integration costs, and still have a healthy additional profit for shareholders. Because of the lower deadband, the utility will be less likely to increase spending to keep under the threshold. The 50% sharing above the threshold will still be important to the shareholders, even though it comes with a ratepayer benefit as well.
6. SEC agrees with OEB Staff that it is premature to determine the appropriate method of cost allocation between the rate zones. Rather than wait until the first ESM calculation, SEC submits that, in its next annual rate application, Alectra should be required to file a proposal for the allocation of all costs (including rate base) between the rate zones. This could be based on the OEB's Cost Allocation Model (i.e. as if the various rates in each rate zone are simply different rate classes), or it could be based on corporate cost allocation models used by other utilities in Ontario and elsewhere. In addition to giving the Board the opportunity to look at cost allocation between the rate zones as early as possible, this would also provide the Board with early transparency with respect to cost responsibility, and therefore potential problems in the future with rate harmonization.

HRZ Service Charge Cost Recovery Study

SEC agrees with OEB Staff that this account should be closed.


Costs

Notwithstanding PO #1, SEC submits that these submissions on IRM issues may assist the Board, and are appropriate areas for customer input. SEC therefore requests that the Board revisit its determination with respect to cost eligibility for these issues, and allow SEC to recover its reasonably incurred costs for reviewing submissions of others, and preparing these submissions.

All of which is respectfully submitted.

Yours very truly,

SHEPHERD RUBENSTEIN PROFESSIONAL CORPORATION



Jay Shepherd

cc: Wayne McNally, SEC (email)
Interested Parties