November 18, 2019

Christine Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Toronto, Ontario
M4P 1E4

Dear Ms. Walli:

<u>EB-2019-0018 –Alectra Utilities Corporation – 2020 Rates – M-Factor Proposal – Final Argument of the Consumers Council of Canada - REVISED</u>

Please find, attached, a revised version of the Final Argument of the Consumers Council of Canada pursuant to the above-referenced proceeding. I inadvertently sent an incorrect version on Friday, November 15, 2019. The revised version includes a few minor corrections.

Please feel free to contact me if you have questions.

Yours truly,

Julie E. Girvan

Julie E. Girvan

CC: Alectra, Regulatory Affairs
All Parties

FINAL ARGUMENT OF THE CONSUMERS COUNCIL OF CANADA

EB-2019-0018

ALECTRA UTILITIES CORPORATION – 2020 RATES

INTRODUCTION:

On May 28, 2019 Alectra Utilities Corporation ("Alectra") applied to the Ontario Energy Board ("OEB" or "Board") for approval of electricity rates for each of its rates zones, Horizon, Brampton, PowerStream, Enersource and Guelph rate zones effective January 1, 2020. The Application also included a request for the following:

- Capital funding based on a rate-adjustment mechanism, referred to as an "M-Factor", which is intended to reconcile the capital needs set out in Alectra's consolidated Distribution System Plan ("DSP") with the capital-related revenue in rates;

- A symmetrical Capital Investment Variance Account ("CIVA") to capture capital funding in excess of the revenue requirement associated with Alectra's actual in-service additions, to be credited or debited to customers at the end of the five-year plan term of the DSP

- A symmetrical Externally Driven Capital Variance Account ("EDCVA") to capture differences between the revenue requirement associated with externally driven capital expenditures (related to regional transit projects and capital works required by road authorities) as forecasted in the DSP, and the actual revenue requirement for in-service additions associated with such projects in the same period;

- A Customer Service Rules-related Lost Revenue Variance Account ("CSRLRA") to record lost revenue and incremental capital costs resulting from changes to customer service rules, and future policy changes implemented by the OEB;

- A Conservation and Demand Management Severance Deferral Account to the severance costs resulting from the termination of the Conservation First Framework and associated CDM activities;

- The termination of certain deferral and variance accounts established in its 2018 Electricity Distribution Rates ("EDR") Application to track the change in capitalization policy for the Horizon, Enersource and Brampton rate zones ("RZs");

- An Earnings Sharing mechanism ("ESM") proposal for the 2022-2026 period;

- The calculation of the 2017 and 2018 Horizon RZ capital additions for the purpose of calculating the 2017 and 2018 entry to the CIVA; and

- Clearance of deferral and variance accounts;

In its Procedural Order No. 1, dated July 9, 2019, the OEB determined that cost awards would only be available in relation to Alectra's M-Factor proposal and its request to reverse the outcome of the prior OEB Decision on capitalization policy.[1] In addition, the OEB established a staged process to deal with the various elements of the Application. Separate schedules were set for the capitalization issues, the Incentive Rate Mechanism ("IRM") issues and the M-Factor issues.

On September 5, 2019, the OEB found that Alectra's request to reverse the outcome of the OEB's previous decision to create the capitalization deferral accounts can be characterized as a motion to vary that decision. The OEB also found that Alectra's request does not meet the threshold test for such a motion.[2] The remaining issues are the calculation and disposition of the capitalization deferral accounts and issues related to the Horizon RZ ESM and CIVA.

These are the submissions of the Consumers Council of Canada ("Council") regarding the M-Factor proposal and the two deferral accounts – the CIVA and the EDCVA. The Council will also be making brief submissions regarding the remaining capitalization policy issues.

BACKGROUND AND CONTEXT:

MADDs Application:

On December 8, 2016, the OEB approved the merger of Enersource, Hydro One Brampton, Horizon Utilities and PowerStream. On October 18, 2018, the OEB approved the merger of Alectra with Guelph Hydro. The OEB did this on the basis that the transactions met its no harm test.

The OEB was guided in its review of the transactions by the following documents: Report of the Board on Rate-making Associated with Distributor Consolidation dated July 23, 2007; Report of the Board on Rate-making Associated with Distributor Consolidation dated March 26, 2015; and the Handbook to Electricity Distributor and Transmitter Consolidations dated January 19, 2016.

In its Decision regarding the first transaction, the OEB highlighted the key elements of its overall policies regarding consolidation:

---

[1] Procedural Order No. 1, dated July 9, 2019, p. 2
[2] Decision and Order dated, September 5, 2019

> The 2015 Report permits consolidating distributors to defer rebasing for up to 10 years from the closing of the transaction. The extent of the deferred rebasing is at the option of the distributor and no supporting evidence is required to justify the selection of the deferred rebasing period. Consolidating entities, must, however, select a definitive timeframe for the deferred rebasing period.
>
> The 2015 Report sets out the rate-setting mechanisms during the deferred rebasing period, requiring consolidating entities that propose to defer rebasing beyond five years to implement an earnings sharing mechanism for the period beyond five years to protect customers and ensure they share in increased benefits from consolidation.
>
> The 2015 Report extended the availability of the Incremental Capital Module ("ICM"), an additional mechanism under the Price Cap IR rate-setting option to consolidating distributors on Annual IR index, to allow adjustments to rates for any prudent discrete capital project that fits within an incremental capital budget envelope, not just expenditures that were unanticipated or unplanned. This provides consolidating distributors with the ability to finance capital investments during the deferred rebasing period without being required to rebase earlier than planned.
>
> As set out in the Handbook, rate setting following a consolidation will not be addressed in an application for approval of a consolidation transaction unless there is a rate proposal that is an integral aspect of the consolidation, e.g. temporary rate reduction. Rate-setting for a consolidated entity will be addressed in a separate rate application, in accordance with the rate setting policies established by the OEB.[3]

The Applicants in that proceeding chose to adopt a 10-year deferred rebasing period. They proposed an ESM for years six to ten of the deferred rebasing period whereby earnings of the new entity, which exceed 300 basis points above the allowed return, will be shared with customers on a 50:50 basis. The Applicants also indicated their expectation to file an ICM for each rate zone under Price Cap IR during the deferred rebasing period.

The Council was not opposed, in principle, to the proposed merger but made the following submissions:

- The evidence throughout this proceeding is that there are cost savings and operational synergies that can be achieved through the merger. The Council's objection to the Application is that if approved, as filed, it would result in a significant and unfair imbalance between the interests of the ratepayers and the shareholders for the next 10 years. The primary purpose of mergers and acquisitions should be to benefit Ontario consumers. It should not be about using ratepayer money to enhance the returns of utility owners. As proposed the Application does not meet the "no harm" test.

[3] EB-2016-0025/0306 Decision and Order dated December 8, 2016, pp. 6-7

- The Council submitted that the Board should only approve the merger if it establishes conditions that are focused on the ratepayers of the four LDCs, ensuring that they are fully protected with respect to prices, and the adequacy, reliability and quality of electricity service. This requires and upfront sharing of the savings and a commitment of the new LDC for continuous improvement in productivity and cost performance.

- Given the complexity of the transaction and number of customers that it will impact, the Council did not support a strict interpretation of the OEB's policies and in particular a 10-year rebasing period would not be appropriate. The new entity should be required to rebase in year 6.

- The Council proposed an ESM, beginning in Year 3, with no deadband. If the Board rejects the proposal to rebase the ESM should, in Year 6 share savings on a 75:25 basis (ratepayer/shareholder) with no deadband.

- The Board should consider setting out in its Decision what conditions are required for the new entity to apply for an ICM.[4]

The OEB approved the transaction, the 10–year deferred rebasing period and the proposed ESM beginning in Year 6. There was also a clear understanding that Alectra would file annual ICM applications. The Council continues to believe that the merger and the underlying conditions of approval are imbalanced in favour of the shareholders primarily because ratepayers are not afforded an opportunity to share in any savings generated during the rebasing period. This is despite claims by Alectra's senior executives that the savings "will be for the benefit of our customers in perpetuity." [5] The Council, as set out below, is of the view that the current Application for the M-Factor proposal, if approved by the OEB, will in fact make the imbalance between the interests of Alectra's customers and their shareholders even worse. This focus of the Application should be about setting just and reasonable rates, and under Alectra's proposals the results will not be just and reasonable. Accordingly, the Council will be urging the OEB to reject the proposal.

ICM Applications:

In its 2018 rates Application Alectra filed a request for ICM funding. In its Decision, the OEB approved 51% of Alectra's request for funding. Of the $56.18 amount proposed the OEB approved $28.79 million[6]. In its Decision the OEB stated:

---

[4] Final Argument of the Consumers Council of Canada, EB-2016-0025, dated October 7, 2016, pp. 4, 10, 11 and 14
[5] Presentation Day Transcript, p. 6
[6] Ibid, p. 30

> The ICM is intended to address the treatment of a distributor's capital investments that arise during the rate-setting plan that are incremental to a materiality threshold. The ICM is a funding mechanism for significant, incremental and discrete capital projects for which a utility is granted rate recovery in advance of its next rebasing application.
>
> Alectra Utilities stated that its proposed projects are in accordance with OEB policies as reflected in the Funding of Capital Report and the Supplemental Report.[7]

With respect to project materiality the OEB concluded:

> The OEB will consider whether each capital project proposed for an ICM is significant with respect to Alectra's total capital budget and not with respect to the capital budget by rate zone[8].
>
> While the second materiality test may be further defined in the future, the OEB must make a decision based on the evidence and submissions in this proceeding. The OEB is guided by the words "significant influence on n the operation of the distributor" and "minor expenditure in comparison to the overall capital budget" in assess the project specific materiality of each project".[9]
>
> In addition, the OEB finds that a discrete project is not simply one that is distinguishable or defined at a new location - or all capital would be eligible. ICM projects do need to be different in kind from those that are carried out through typical base capital programs[10].

The Council notes that this was not the first Decision of the OEB in which projects were rejected as ICM eligible on the basis of materiality. In the Toronto Hydro Decision (EB-2012-0064) several projects were not approved for funding for not be significant in the context of the overall capital budget. This approach was subsequently adopted by the OEB in its Report of the Board – New Policy Options for the Funding of Capital Investments: the Advanced Capital Module dated September 18, 2014.

In its 2019 rates Decision the OEB approved $26.27 million of the $31.57 million proposed. This represented 81% of Alectra's request. With respect to ICM eligibility the OEB concluded in that case:

---

[7] EB-2017-0024 Decision and Order dated April 5, 2018, p. 20
[8] Ibid, p. 25
[9] Ibid, pp. 25-26
[10] Ibid, p. 27

> As set out in the OEB's ICM policy, the ICM is a funding mechanism available to electricity distributors whose rates are established under the Price Cap IR regime, as described in Section 3.3.2 of the Filing Requirements. The OEB's ICM policy does not make ICM funding available for typical annual capital programs. It is also not available for projects that do not have a significant influence on the operations of the distributor. The ICM is intended to address the treatment of a distributor's capital investment need that arise during the Price Cap IR rate-setting plan which are incremental to a materiality threshold. The ICM is available for discretionary and non-discretionary projects, as well as for capital projects not included in the distributor's previously filed Distribution System Plan. It is not limited to extraordinary or unanticipated investments[11].

With these two Applications the OEB clarified what constitutes ICM eligibility with respect to Alectra.

SUBMISSIONS:

Alectra's M-Factor Proposal:

Alectra completed a 5-year Distribution System Plan ("DSP") as required by the OEB in its 2019 Application Decision. In order to reconcile the investments set out in its DSP Alectra developed a new capital funding mechanism, which it has labeled the "M-factor". Alectra's M-Factor proposal is a rate adjustment mechanism that would allow Alectra to recover the revenue requirement impact of approximately $275 of capital over the five-year period beginning in 2020. Alectra's evidence is that it requires the M-Factor to deliver the outcomes its customers expect from the DSP. The purpose of the M-Factor is, according to Alectra, to fund the gap during its rebasing deferral period between the level of investment funded through base rates and the level of investment that needs to be funded to address system priorities and outcomes consistent with customer needs and preferences, and enables it to fully execute its DSP.[12]

Alectra argues that in delivering its DSP it needs the flexibility to potentially accelerate projects from later to earlier years or to defer projects. Alectra has repeatedly argued that the M-Factor is required because it is "unique" being the first utility arising from a consolidation of multiple utilities to file a five-year DSP in the midst of a 10-year rebasing deferral period. [13]

In its Application, Alectra indicated that the amount of overall investment arising out of its DSP, based on a portfolio of 884 "projects" is $1.456 billion for an average of $291 million per year. Alectra determined that base distribution rates would

---

[11] Decision and Order, EB-2018-0016, January 31, 2019, pp. 4-5
[12] Ex. 2/T1/S3/pp. 2-3
[13] Argument in Chief, p. 6

support $1.182 billion of total capital expenditures during the 2020-2024 period for an average annual capital expenditure level of approximately $236 million. According to Alectra this created a capital expenditure funding gap of $55 million per year or $275 million over the five-year period. The proposed M-Factor funding is $265 million which could potentially be increased by an additional $9.3 million though the operation of the CIVA.[14]

In its Argument-in-Chief Alectra indicated that because of corrections to billing determinants and the updated OEB inflation rate calculation the M-Factor proposal is made on the basis of an updated materiality threshold. Base rates are expected to support $1.086 billion of total capital expenditures during the 2020 period for an average annual capital expenditure level of approximately $217 million. It is Alectra's position that the amount of capital funded by base rates has declined and the funding gap is now $74 million per year or $370.4 million over the five-year period. Alectra has stated that the M-factor funding amount has not changed from the $265 million. This will allow for the funding of what is now 203 projects (versus 194 referred to the hearing). Although this is new evidence it appears that Alectra is still seeking funding of it entire DSP through the M-Factor and the CIVA. It also appears that Alectra is not increasing the M-Factor allowable amounts directly, but is doing so indirectly by booking to the CIVA incremental amounts above the $1.086 million that would be cleared upon rebasing. This new proposal needs to be clarified in the Applicant's Reply Argument.

The incremental amount of revenue requirement that Alectra is seeking approval for through this Application is $60.9 million. Despite the fact that Alectra claims that this results in monthly bill impacts that are not material[15] the Council submits that this represents a significant amount of money that Alectra is seeking to recover from its customers.

It is Alectra's position that the OEB's ICM mechanism and its Advanced Capital Module ("ACM") do not provide the flexibility or the longer-term flexibility that is needed in order for Alectra to invest in and efficiently execute its 5-year DSP. Alectra argues that it must be able to execute all of the work in its DSP while simultaneously accommodating changing circumstances that may require the acceleration of some work and the deferral of other work within the 5-year period, both within and between rate zones[16]

Alectra provided a detailed list of the M-Factor investments by year through the interrogatory process. Many of the "projects" listed were less than $500,000, with some being rounded down to 0$.

---

[14] AIC, pp. 4-5
[15] AIC, p. 2
[16] AIC, p. 24

CIVA:

Alectra has proposed a symmetrical Capital Investment Variance Account to capture capital funding in excess of the revenue requirement associated with actual in-service additions to be credited or debited to customers at the end of the 5-year rate plan period. With respect to the M-factor projects its is Alectra's position that the only variances that would be recorded in the CIVA would continue to be variances attributable to work being accelerated or deferred or re-prioritized as between rate zones, including depreciation and return on capital, changes due to such timing or locational differences, variances in actual versus forecast costs of execution and variances in the scope of the individual M-Factor projects that may be necessary.[17]

It now appears that given the change in the materiality threshold the CIVA will also record all non-M-Factor spending not funded through base rates[18]. This is clearly a change from Alectra's proposals as presented in the evidence and discussed at the hearing. There has been no ability for the OEB, its Staff and the intervenors to test this proposal.

Externally Driven Capital Variance Account (EDCVA):

Alectra has requested approval of a new symmetrical account to capture the differences between the revenue requirement associated with externally driven capital expenditures as forecast in the DSP and the actual revenue requirement for in-service additions associated with these projects. The account is to deal with projects related to regional transit and capital expenditures required by road authorities. Alectra's position is that these are non-discretionary and driven by third parties who control the scope and the cost. The Council is of the view that if the OEB accepts its position that the M-Factor be denied for 2020 the OEB should allow for this account for a one-year period as these projects are non-discretionary and out of the control of Alectra in terms of cost, scope and timing. If Alectra applies in 2021 for either an ICM or a cost of service rebasing the OEB should reconsider this type of account in the context of those future proposals.

Customer Engagement:

Alectra has repeatedly referred throughout this proceeding that its investment plan is built from the ground up to address the needs of the system as a whole in "consideration of the identified priorities and preferences of Alectra Utilities customers and a range of other planning considerations."[19] They state that the plans were informed by multiple rounds of customer engagement which occurred both before investment options were identified, and again once specific options and outcomes were defined. They also state that based on this engagement they have a

[17] Ex G-Staff-9 pp. 5-6
[18] AIC, p. 32
[19] Ex. 1/T3/S1/p. 1

clear understanding of the priorities of its customers. It is Alectra's evidence that customer priorities and preferences have been reflected in its overall capital plan[20].

A number of the "Key Findings" set out in the Final Innovation Research Group Report include:

- A strong majority of Alectra Utilities customers across all rate classes and in all rate zones support additional investments in infrastructure that most directly serve customers including overhead renewal, underground renewal, transformer replacement, monitoring and control equipment and converting rear lot services;

- A clear majority of Alectra Utilities customers across most rate classes support the remaining investments in grid infrastructure including expansion, intensification, and back-up investments, voltage conversion, additional station investments and distribution station capacity; and

- Overall, customers are prepared to pay for the level of investment recommended by Alectra Utilities[21]

Through an extensive, complicated and costly process customers were asked to consider pacing for things like rear lot conversions, stations capacity investments, voltage conversions and transformer replacement etc.

Alectra seems to be saying that the majority of their customers support their DSP and the funding that is required to support that DSP. The Council urges the OEB to be cautious with respect to these overarching conclusions for the following reasons:

- The information provided to customers can be viewed as leading. For example in the on-line workbook one of the informational pieces states – "Alectra Utilities recognizes that delaying the less pressing investments will make it harder for staff to do their jobs safely and maintain reliability standards."[22] With respect to voltage conversion the workbook states - "Alectra Utilities is connecting more customers due to load growth in the Greater Toronto area. In the areas where this customer growth is occurring many of Alectra's substations are approaching capacity limits. Delaying planned investments could result in a decline in Alectra Utilities quality of service to current customers"[23]. In addition, the photographs that were provided to customers suggested that the condition of certain assets were

---

[20] Ibid, p. 3
[21] Ex. 4/T1/S1/Appendix C – Innovative Research Group report, dated may 2019.
[22] Ibid, p. 38
[23] Ibid, p. 58

dire, but this was not necessarily reflective of all of those assets in those categories in the rate zones where those customers resided;

- The level of complexity regarding the surveys and workbook was significant. To conclude that the majority of Alectra's customers had the capacity to answer questions regarding complex investment decisions and trade-offs in inappropriate and should be questioned;

- Alectra and Innovative Research never mentioned to customers that embedded in rates is an allowed Return on Equity of approximately 9%[24];

- Alectra and Innovation Research never mentioned to customers that the net savings that have resulted from the merger will not be shared with customers for 10 years – even though those savings are expected exceed $400 million[25];

- If customers were aware of the level of profit embedded in rates and the fact that merger savings were flowing to the shareholders the customer engagement process may well have resulted in a different outcome; and

- Alectra did not tell customers that they were seeking an additional $275 million in additional capital over the rate plan term and that the revenue requirement impact of that was $60.9 million. In fact, giving the new materiality threshold set out in the AIC, the incremental amounts may well be higher.

The Council's Submissions:

The Council is opposed to the implementation of the M-Factor proposal for the following reasons:

- Alectra applied to the OEB for approval of its MADDs transaction with a clear understanding of what was OEB policy. They elected a 10-year deferred rebasing period, proposed an ESM for years 6-10, and indicated that they would apply for ICM relief in each year of its rate plan period. They would be granted a 10-year deferral period with incremental capital requirements defined by the ICM mechanism in exchange for the ability to keep all of the savings generated through the deferral period. The OEB at that time did not specify how rates would be setting during the deferred rebasing period and specified that "Rate-setting for a consolidated entity will be addressed in a separate application, in accordance with the rate-setting policies established

---

[24] Ex. CCC-6
[25] Ex. G-Staff-15

by the OEB."[26] They effectively knew the rules of the game. In fact, when the Council suggested that the OEB attempt to pre-set conditions for ICM applications this idea was rejected by Alectra on the basis that any such conditions are best considered in the context of the actual circumstances of an ICM application.[27]

- Alectra during the hearing was emphatic about the fact their proposals were entirely consistent with the OEB's MADDs policy, which states that LDCs must have access to capital funding that includes "normal and expected capital investments". [28] They were claiming that the ICM applicable to consolidated utilities was somehow different than the ICM policy for all others, and the OEB has an obligation to allow funding for all normal and expected capital investments. The OEB has never said that, and has determined the outcomes of each ICM application on its own merits. Despite telling the OEB repeatedly that it effectively got things wrong with respect to its previous two rate applications for 2018 and 2019[29], Alectra did not seek to vary or appeal either of those Decisions. Alectra refused to say why they did not appeal those Decisions. In fact, even in light of the 2018 Rates Decision and the OEB's ICM determination in that case Alectra moved forward with its decision to merge with Guelph Hydro.

- Alectra developed a Business Plan for 2019 and beyond that assumed it would only receive 50% of the funding requested in its 2019 ICM Application and beyond. That Business plan was specifically approved by its Board of Directors. That implies they were prepared to live with that level of funding going forward.

- Despite arguing previously that the OEB made the last two decisions effectively in violation of the MADDs policy (by excluding certain normal and expected capital projects) Alectra is now saying that the OEB has broad discretion in how it establishes just and reasonable rates. As stated by Alectra in its Argument in Chief, "the OEB is not limited by policy considerations or mechanisms such as those set in relation to the ICM/ACM in exercising its discretion. The OEB's ICM/ACM are not binding law and do not constrain the OEB. Rather they are policies that are subject to the OEB's fundamental obligation to establish just and reasonable rates". Choose the M-factor as proposed by the Applicant, or it can choose any other form of rate relief, including any form of incremental capital funding, to establish rates for Alectra as long as the rates it establishes are in accordance with the just and

[26] EB-2016-0025, Decision and Order, dated December 8, 2016
[27] EB-2016-0025 – Alectra reply Argument, p. 22
[28] Ex. 2/T1/S3/pp. 5-6
[29] Presentation Day Transcript, p. 12

reasonable standard.[30] Alectra goes on to say however, that although the OEB can choose any sort of rate relief "given the DSP is comprehensive, in line with the applicable filing requirements, appropriate and to the benefit (and supported by) Alectra's customers, capital funding through just and reasonable rates is required such that customers, who stand to benefit for the capital expenditures, will though rates fund the needed capital."[31] The implication of this statement is that full funding of the DSP is the only way to arrive at just and reasonable rates. The Council disagrees.

- Under the Renewed Regulatory Framework for Electricity ("RRFE") the OEB allows LDCs to choose the type of rate model used for determining their rates – Annual IR, Price Cap IR and Custom IR. Under the MADDs policy Price Cap IR is the default during the deferred rebasing period. For 2020 and beyond, all of Alectra's rate zones will be on Price Cap IR (as the Horizon Utilities Custom IR expires at the end of 2019). What the M-Factor and CIVA proposals effectively do is to create a Custom IR for Alectra during its deferred rebasing period. Alectra had every opportunity to choose Custom IR following a shorter rebasing period, but they did not. That is likely because they would then have to flow though any efficiencies resulting from the merger to their customers. Net synergies (synergies net of transition and transaction costs) in 2018 are $31.9 million and projected to be $49.2 million in 2020 and $62.9 million in 2021.[32]

- The Custom IR that Alectra is effectively proposing includes cost of service pass-through treatment for capital. On this point, when asked by Ms. Anderson during the presentation day whether Alectra considered customizing other elements of the price cap IR that might reduce the risk to customers, such as enhancing the earnings sharing mechanism or having and CIVA that was asymmetrical instead of symmetrical Mr. Basilio referred to their approach as cost of service regulation. He also rejected the idea that, in light of a shift to this cost of service approach for capital Alectra was not willing to give a concession to customers through an adjustment to the CIVA or ESM:

> I mean, we did consider asymmetrical but you know – and what does that do for customers? Well, it protects them against spending for additional capital needs in the period, but I think our view is if those capital needs are prudent, you know, shouldn't customers pay for them? <u>That is the nature of cost of service regulation</u>. Of course, at the end of the day when we have a CIVA variance, we are coming back to the Board to render its judgment on whether that was prudent or not and whether it should be recoverable in rates, so that in our view was sort of the balancing mechanism for

---

[30] AIC, p. 11
[31] AIC, p. 12
[32] Ex. G-Staff-15

> customers, that we don't just necessarily get the overspending. It's going through due process (emphasis added).
>
> I think on the ESM we were largely sticking with the ESM that was proposed in the MADDs application to be consistent, something we relied upon certainly by our shareholders as a component of the incentive regime to improve the transaction.[33]

- The implementation of the M-Factor and CIVA gives increased rate certainty to shareholders for the duration of the IRM term in that they will receive funding for all capital expenditures related to Alectra's DSP. This reduces the shareholder's risk. In light of this, however, as set out above Alectra, is not prepared to give something to its customers in exchange, like an enhanced ESM, a lower ROE or a CIVA that is asymmetrical. This is all in a year whereby the <u>net</u> synergies associated with the merger are targeted to be $62.9 million.

- The difference between what Alectra is proposing and what other LDCs like Toronto Hydro-Electric System Limited and Hydro One Networks Distribution and Transmission have proposed as part of their capital pass-through proposals is that there is no productivity built into the forecasts. There is no incentive for Alectra to seek efficiencies that could potentially flow through to its customers upon rebasing. This is effectively muting the concept of incentive regulation, the fundamental premise of the RRFE.

- Alectra's executives have indicated that they are entering a critical juncture as they plan to deal with a period of heightened capital asset renewal, as a large population of deteriorating assets are reaching their end of life.[34] However, it is not clear as to why they have found themselves in this scenario given the overall level of capital spending that has been approved in the past and in light of the expected synergies arising out of the merger.

- Alectra refused to provide a list of what it viewed as ICM eligible projects for the years 2020 and beyond. This has effectively prevented the OEB and intervenors from arguing for ICM treatment for 2020 and beyond. This is an M-Factor Application and not an ICM Application. Alectra has essentially argued that the OEB is obligated in its requirement to set just and reasonable rates to approve all of the capital funding arising out of the DSP.[35]

Conclusions:

- The Council urges the OEB to reject Alectra's proposal for the M-Factor and the CIVA. The proposals are counter to OEB policy and the rate-making

---

[33] Presentation Day Transcript, p. 49-50
[34] Presentation Day Transcript, p. 25
[35] AIC, p. 12

options set out in the RRFE. Alectra is effectively applying for a Custom IR plan within a deferred rebasing period that requires rates to be set on the basis of the OEB's established Price Cap IR mechanism (with an opportunity to obtain ICM relief). The Custom IR is requesting that capital spending be set on a cost of service basis for the next five years, with full flexibility to move projects around within a capital envelope. In addition, given the arguments advanced in the AIC, the CIVA should allow for even more incremental capital than that which was presented during the hearing.

- Alectra has made no effort to present a balanced approach that would better align the interests of its ratepayers and shareholders. In fact, its proposals present more risk, and less benefits to ratepayers relative to the plan approved by the OEB in the MADDs proceeding.

- Alectra proposed a 10–year deferred rebasing period knowing full well what the OEB's rate-making parameters were. It is now attempting to change those parameters in a year where the net annual savings resulting from the merger are expected to exceed $60 million.

- Alectra made no effort to present the OEB with alternatives, refusing to identify the projects in its list of 194 (now 203) that it would consider ICM eligible.

- The Council submits that Alectra has an opportunity to apply for ICM relief for its 2021 rate Application and beyond in accordance with the OEB's established polices and previous ICM Decisions.

- If Alectra cannot live within the framework it requested and the framework approved by the OEB through its MADDs Decision it can apply to rebase its rates and apply for a Custom IR mechanism going forward.

Capitalization Policy:

The Council has reviewed the detailed submissions of the School Energy Coalition regarding the changes in capitalization policy. The Council agrees with those submissions that propose the adjustment of the capitalization policy change should be done using the standard account 1576 which results in the rate base differential refunded to, or collected from customers at the time of rebasing.

COSTS:

The Council requests that it be awarded it reasonably incurred costs for its participation in this proceeding.

ALL OF WHICH IS RESPECTFULLY SUBMITTED