



PUBLIC INTEREST ADVOCACY CENTRE
LE CENTRE POUR LA DÉFENSE DE L'INTÉRÊT PUBLIC

**Alectra Utilities Corporation
EB-2019-0018**

Submission
of the
Vulnerable Energy Consumers Coalition
(VECC)

M-Factor

November 18, 2019

Vulnerable Energy Consumers Coalition

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Submissions

Summary

1. VECC submits the Board should dismiss the Application in its entirety as it fails on the merits of its premise – a proposal to fund a distribution system plan during the deferral rate rebasing period.
2. In the alternative the Board should either: (a) require Alectra file a cost of service application for a period of not less than 2 years in order to implement its proposed distribution system plan; or (b) the Utility should amend its application to produce a multi-year ICM to address the reliability issues associated with its degrading underground plant.
3. VECC submits the Board should deny the requested CISVA account.
4. VECC supports the establishment of an EDCVA account to capture projects completed pursuant to the *Public Service Works and Highway Act*. And all such types of projects should be removed from any relief granted under either an M-Factor or ICM capital recovery methodology.

The M-Factor

5. In this Application Alectra Utilities (Alectra) is seeking rate funding of its new post-merger amalgamate Distribution System Plan (DSP). The DSP is comprised of 884 projects totaling \$1.456 billion in capital as shown in the table below¹. The total incremental revenue requirement attached to the DSP funding request is approximately \$61 million over the five year period.

Investment Category (\$MM)	2020	2021	2022	2023	2024	Total	Total M-Factor by Category J1.3
System Access	66.50	66.90	63.20	67.10	70.20	333.90	10.70
System Renewal	139.00	142.00	154.00	156.10	177.20	768.30	101.40
System Service	38.00	36.90	36.00	42.40	37.20	190.50	109.30
General Plant	39.40	34.40	35.10	30.20	24.70	163.80	43.60
Total Cap Ex	282.90	280.20	288.30	295.80	309.30	1456.50	265.00
Threshold Calculation	230.0	233.1	236.3	239.6	243.1	1182.0	
<i>M-Factor Allowance</i>	52.90	47.10	52.00	56.20	66.20	274.50	
M-Factor Request	52.67	43.65	52.02	52.07	64.54	264.96	
	282.67	276.75	288.32	291.67	307.64	1447.05	

¹ Exhibit K1.6 VECC Compendium October 15, 2019 and Undertakings J1.2, J1.3

6. M-Factor projects represent just over 57% of System Service projects, but also a large portion, (26.6%) of General Plant projects. The projects costs are allocated to the various rate zones as set out in the table below:

M-Factor Funded by Zone G-Staff-4	
Horizon	47.4
Brampton	26.0
PowerStream	110.6
Enersource	51.8
Guelph	4.1
Multiple Zones	25.0
Total	264.9

7. What actually defines an M-Factor project remains unclear to us. That is it is not clear why a particular project should be deemed to be covered under the “base rate” category and why other projects should join the M-Factor list. Given a significant amount of the M-Factor expenditures are for vehicles it is clear that the latter list does not inherently incorporate investments designed to best improve delivery reliability. In fact some projects like “Alectra Drive at Home” (\$2.7 million) and “Alectra Drive for the Workplace” (\$0.8 million) would have no material impact on system reliability².
8. Alectra did provide the following guide showing how M-Factor projects are aligned with its Distribution System Plan (DSP).³

Table 5 – 2020 - 2024 M-factor Capital Projects by Investment Need (\$MM)

DSP Priority Needs	2020-2024 M-Factor Capital Expenditures
Enhancing the resilience of its overhead system to adverse weather events	\$62.4
Mitigating the need to rebuild or construct new stations by enhancing the use of monitoring technologies, investing in environmental protection measures and strategically managing inventory on a consolidated basis	\$43.9
Preventing further decline in reliability due to deteriorating underground assets	\$35.2
Responding to anticipated needs in areas of new greenfield development and urban redevelopment/intensification	\$123.6
Total M-factor Capital Expenditure	\$265.0

² G-Staff-4

³ Exhibit 2, Tab 1, Schedule 3, page 14

9. While it is not clear what distinguishes an “M-Factor” project from a “Base” project, what is clear is that M-Factor projects are not replaceable with ICM projects. Not only does Alectra make this clear in evidence and witness testimony, but it is also evident by the fact that the M-Factor projects generally do not follow the ICM policy guidelines. For example the multiple vehicles as part of a fleet renewal program. For this reason M-Factor projects cannot be easily translated into ICM eligible projects.
10. While notionally the M-factor incremental funding is between \$9.3 - \$9.4 less than the full amount identified in the DSP, the proposed CIVA would capture the difference for potential recovery in rates at a later date. The average annual capital spending under this DSP (without any CIVA amounts) is \$289 million per year over the 2020-2024 period. This compares to combined utilities average annual spending of approximately \$265 million in the prior 2015-2019 period. A significant increase.
11. At the close of the hearing Alectra recalculated its M-Factor threshold for a new inflation forecast and to make correction to billing determinants. This had the effect of increasing what Alectra refers to as a “capital expenditure funding gap” to \$370.4 million “. However, the Utility also stated it was not seeking to modify its M-Factor dollar request for this adjustment. For the purpose of our submissions we have used the original proposal and amounts. We note however, that the fact that changes to forecast variables – like inflation rates and the such - has such a significant impact on the amount of capital ratepayers might be required to fund in distribution rates reflects the inherent instability of the proposed M-Factor.

Customer Engagement

12. Alectra made pointed efforts in this application to address the Board’s comments in prior decisions on the issue of customer engagement.⁴ In some sense we cannot criticize the efforts of the Utility since they are response to both filing guidelines and prior decisions of the Board. In this case Innovative Research Group (the usual purveyor of such studies to Ontario LDCs) managed to get 32,000 customers to fully complete an online workbook surveys as part of a two stage customer survey program. While there are various statistical weakness in these surveys, including self-selection bias and abysmal response rates, the real issue is the “self-realization” nature of the exercise itself.⁵⁶ Like other similar engagement-survey exercises we have examined, Innovative provided customers with a premise which expressed a de facto necessity of additional capital to maintain (or improve) system reliability and safety. Then the respondent is directed to the small incremental increase in costs to address this purported need. Customers are asked in essence if they would rather have reliable power or pay a small rate increase. The results are never surprising.

⁴ See for example, Decision and Order, EB-2018-0016, page 10 Decision and Oder EB-2017-0024, page 19

⁵ The first is that the response rates are incredibly low – 30% for the workbook and 3.7% for online surveys – see Technical Conference Undertaking JT1.9

⁶ Technical Conference Undertaking JT1.9

13. However, had the Utility instead asked: *In 2016 Alectra had a return of 9.9%. Would you support paying \$13 million extra for new vehicles or should Alectra continue to fix and maintain its existing vehicles at no extra cost to you?* If that been the question we think the nature of the responses would have been somewhat different.
14. The point is that customers in these surveys are seldom given information unfavourable or even mildly critical or sceptical of the proposition at hand. Nor are they presented with any real options or their cost (such as whether backlots should be rebuilt at a significantly lower cost than replacement by front lot underground). We also find it frustrating that, just as we have seen in proceedings, Alectra expounds upon the difficulty of linking outage and other reliability metrics to capital investment when in front of the Board. Yet no such trepidation on is found when surveying customers in pursuit of an expansive capital budget. In those instances the value link between dollars spent and reliable service becomes much more clear and straightforward.
15. If it is indeed simple to explain to customers the link between capital investment and the resulting reliability outcome then, we submit, there should a meaningful rate plan which links metric targets outcomes to that capital investment. Put bluntly, if Alectra wants to increase its spending on underground asset by 56% as compared to the past 5 years then in should be prepared to accept a reduction in revenue requirement if outages with respect that category of equipment are not reduced. When that deal can be promised then it may legitimately be asked of ratepayers if they support an increase in capital spending for the benefit of reliability. Until that time we respectfully submit the type of customer engagement being undertaken by Alectra (and other LDCs) is largely a waste of time and (ratepayer) money.

ACM/ICM or the M-Factor

16. In their Argument-in-Chief (AIC) Alectra makes the statement “[D]uring the oral hearing, OEB staff and intervenors were preoccupied with interpretation of the OEB’s MAAD’s policy and the ACM/ICM policies⁷.”
17. Well yes. The M-Factor poses significant policy question for the Board to consider. Posited by the Applicant is that the enhanced MAADs policy articulated an enhanced ICM/ACM policy which was then relied upon in proceeding with the transaction to amalgamate four utilities. Alectra goes on to explain it then became dissuaded from its “MAADs based ICM” interpretation after two Board’s decision on subsequent to the approval of the MAADs application. Notwithstanding this concern Alectra went forward and purchased a fifth utility (Guelph Hydro).
18. In fact, rather than intervenors being preoccupied with the issue of ICM policy, it is Alectra who makes the argument that the Board failed to adhere to articulated policy. The ardent nature of that argument is shown in the following exchange:

⁷ Alectra Argument-Chief (AIC), November 1, 2019, page 29.

MS. BUTANY-DESOUZA: In our view, what we've put forward is a list of discrete projects for which there is a priority for investment and for which there is a need identified, substantiated, and tested with customers through the DSP process, and it's that list of projects that we're bringing forward for M-factor.

MR. GARNER: Well, it doesn't seem that way, and I don't want you to think I am trying to trap you into something. I am actually trying to figure out what's happened. So what I understand has happened -- and I think below here, you'll see a response that you gave to Staff about the difference between the ICM, et cetera and that. But as I understand it and from what I understand at the technical conference -- and you tell me if I am wrong -- but as I understand it, it works kind of like this -- your understanding. I want to see it through your eyes. Your eyes are basically like this, we came to the Board with a merger proposition. And in that proposition, it was our understanding that under the Board's MAADs guidelines, the Board had made a nuanced change to the ICM. And the nuanced change it made to the ICM was that it would fund and allow to be funded projects that would be in the normal course of business, so to speak, as opposed to the ICM that the utilities doing cost of service were encountering.

Then to further that, in -- sorry, your next decision the Board came out with, the next two decisions, the Board actually gave you decisions that made you pause and say that that's not what their decision is giving us. It is not giving us what we thought was going to be the policy out of the MAADs agreement.

Am I wrong? Or can you tell me if that is the way you see it?

MS. BUTANY-DESOUZA: Let me start with that you said that it is a nuanced difference. We definitely don't see it as a nuance.

MR. GARNER: Don't hang on the word, but it is a difference.

MS. BUTANY-DESOUZA: In a proceeding like this, words matter and they certainly matter in terms of our interpretation or our understanding.

Recognizing that the past is the past and that we have a consolidated DSP before the Board and specific circumstances -- which I will come to in a minute -- but we

do see it as a distinction in the MAADs policy and the MAADs handbook. And the reason I say let's pause on the word nuance, is because if it was just a throwaway term, just random difference or just a word that had been included but not with specificity, then in our view, the Board wouldn't have taken the time to, one, spend a lot of time in the MAADs policy on the challenges that consolidating distributors or 2 not consolidating distributors were experiencing, and to identify in that MAADs policy that the Board was specifically trying to address those concerns.

And in fact, it is on that basis that Alectra's predecessors, that the applicants that formed at the time LDC Co. brought forward that application, that there was an 8 opportunity to address the incremental capital funding, we couldn't live without incremental funding throughout the rebasing deferral period.

Then of course there was the extension of the rebasing deferral period from five to 10-years, the Board also recognizing the concern of intervenors and its duty towards customers in general that there shouldn't be a wind fall. So in extending that rebasing deferral period, introducing an EM&V. So protecting customers in two fashions, as far as we're concerned One, the ability of their utility to invest and also the ability to extend the rebasing deferral period because that was also necessary for distributors that were consolidating, in order to recover transition and transaction costs and realize synergies over that time period.

So when I say that the Board spent time on it, they spent time on it describing the challenge in EB-2014-0138. That's the March 2015 MAADs policy. And they, under the heading "OEB policy", on page of that document, indicated that a distributor may now apply for an ICM that includes normal and expected investments.

And then, some nine months later, the Board released the MAADs handbook, January 9th, 2016, and in that document again specified that normal and expected capital would be funded. And that consolidating contractor distributors, page 17, should not be -- with the ability to finance capital investments during the deferral period without being required to rebase earlier than planned. And so I have taken a lot of time, Mr. Garner, but again I really -

MR. GARNER: I certainly shouldn't have used the word nuance, I can tell you.
[Laughter]
I am not debating that.

MS. BUTANY-DESOUZA: But then you have taken me to G-16 Staff-18, and that is where we set out why the ICM does not work for us.

19. Then moving on to the referenced interrogatory Alectra continues⁸:

In order to understand why Alectra Utilities considers the ICM unable to provide sufficient funding for its capital needs, one must first consider the context in which the OEB approved 3 83% of Alectra Utilities' ICM request for the 2019 rate year. In the OEB's Decision and Order on Alectra Utilities' ICM request for the 2018 rate year (EB-2017-0024), the OEB awarded Alectra Utilities only 51.1% of the capital funding relief that it sought. That Decision and Order was issued on April 5, 2018 (and revised on April 6). As a result of that Decision and Order, which fundamentally changed the Alectra Utilities' understanding of how the OEB would determine the eligibility of investments for ICM funding, Alectra Utilities delayed filing its ICM request for the 2019 rate year to June 7, 2018.

*In the ICM Decision for the 2018 rate year, the **OEB significantly reduced the ICM recovery to fund important capital investments, not because of any issue with the investments themselves, but because the OEB determined that the ICM required application of an additional test for determining investment eligibility. The additional test had not been part of the OEB's ICM or MAADs policies.** Rather, it was based on a prior decision of the OEB on an application by Toronto Hydro, where the OEB assessed each project individually for its significance against Toronto Hydro's total planned capital spending. The OEB applied its judgement to consider whether each capital project proposed for ICM funding was significant relative to Alectra Utilities' total capital budget, not relative to the capital budgets identified for each rate zone. The application of this additional test for ICM eligibility was new and unexpected.*

*Further, in denying ICM funding for projects in respect of the 2018 rate year the OEB found that Alectra Utilities' projects were not a significant capital cost in comparison to the overall capital budget of Alectra Utilities for 2018. The OEB stated that Alectra Utilities should be able to fund those projects through its normal capital budget during the IRM term¹. **Also, the OEB unexpectedly strayed from its prior finding in the MAADs Policy that "normal and expected" capital investments would be eligible for ICM funding, by finding instead that ICM funding is "not available for typical annual capital programs".** [Emphasis added]*

⁸ Exhibit G-Staff-18

20. The accusation is clear. Alectra posits that the Board modified a “MAAD’s informed ICM” policy and in doing so reneged on its purported commitment to fund 90% of any distribution plan put before the regulator (i.e. 10% being eliminated under the ICM /M-Factor threshold).
21. In its argument-in-chief Alectra walks back slightly from the strident position of blaming the Board for its failure to carry out some imagined MAADs policy. Here the Utility argues:⁹

Alectra Utilities recognizes that the OEB has established certain policies and mechanisms to permit incremental capital funding for utilities in different circumstances, including the Incremental Capital Module (“ICM”) and the Advanced Capital Module (“ACM”). However, due to limitations associated with ICM/ACM and how the ICM has been applied by the OEB (see Section F, below), these mechanisms do not enable Alectra Utilities to address the incremental capital funding needs arising from its 5-year consolidated DSP and do not solve the capital funding gap.

22. We do not agree with Alectra that the Board’s ICM policy was not clear or in any way deviated from expectations pre and post MAADs. Fundamentally the ICM policy was enacted to address impending and specific infrastructure needs that might arise during a period in which rates were not being recalculated based on a specific forecast of costs. Like any good regulator the OEB modified the policy as it began to understand the specific circumstances under which utilities might avail themselves of this relief. In doing so the Board in fact expanded the policy. Originally contemplated to provide funding relieve for specific large single event projects – for example a new transmission station - the Board broadened the criteria to ensure that ICM was not limited to these extraordinary or unanticipated investment and allowed multi-faceted and multi-year projects whether discretionary or not, to be applied considered. The more accessible aspects of the ICM/ACM framework were incorporated into the Board’s MAADs policies. Moreover Alectra was a beneficiary of this more liberal approach when the Board approved (and VECC supported) the “Leaking Transformer Project” as part of its application in EB-2018-0016¹⁰.
23. We do agree with Alectra that the ICM/ACM framework was not intended to provide the entire funding of a comprehensive distribution plan. Alectra did not either since it did not seek this as a pre-condition in its MAADs application. To the contrary it is clear that at the time of amalgamation Alectra had no expectation of funding capital needs other than through base rates and the ICM mechanism.
24. At no time did the Board articulate a policy in which the entirety of a new amalgamated distribution system plan would be funded. Rather the distribution system plan was sought to provide the basis for future ICM proposals. Specifically, in its Decision EB-2017-0024 the

⁹ AIC page 7

¹⁰ Decision with Reasons, EB-2018-0016, January 31, 2019, pages 10-12

Board specifically required that Alectra Utilities file a consolidated DSP as a filing requirement with any ICM application requesting rate changes for 2020 rates and beyond¹¹.

25. The role of ICM policy is central to this case. It does so because it frames how the Board should consider capital investment during the cost of service rate deferral period. Alectra invites the Board to look at the proposal as a means to implement a new distribution plan. As such it would, for example, allow M-Factor projects to be funded in rates that were previously denied as part of ICM proposals¹². The argument to be resolved is not, as Alectra tries now to dismiss as, a difference in nomenclature or semantics, but an issue that will inform rate making for the remaining period of the cost of service deferral period.
26. If the Board were inclined to adopt Alectra's approach it would then need to address significant issues with respect to the benefits of customers of a 10 year rate rebasing deferral. That is because funding the DSP, on the envelop approach proposed by the Applicant and funded through the M-Factor would in effect eliminate a large, if not the largest source of potential future efficiencies that are supposed to accrue under amalgamation. This is because the M-Factor is in effect a cost of service recovery mechanism of capital investments and lacks any productivity or efficiency mechanisms. It has all of the shortcomings of the various "c" factors proposed under custom IR by Toronto Hydro and Hydro One but without any of their (in our view modest) redeeming features.
27. As has been identified by experts in incentive regulation like PEG in other proceedings, the inherent problem with capital pass-through is that it perversely incents the utility to spend excessive amounts on capital in order to trim OM&A expenses.¹³ VECC attempted to make this point in cross-examination by using vehicles as an example¹⁴. There is a clear trade-off to be made between maintaining an older vehicle and buying a new one. If one is full reimbursed for the cost of new vehicle (plus a return on part of that expenditure) or incur the incremental operating costs of maintaining an aging one without the benefit of any additional revenues then to a rational return maximizing shareholder the decision is straightforward – buy a new vehicle!
28. We therefore find it interesting that the M-Factor identifies some \$12.7 million in fleet costs that would finance about 20% of the fleet costs over the 2020-2024 period.¹⁵ It is also interesting to note that the average fleet spending is proposed to increase from \$6.04 million over the 2015-2019 period to \$9.97 million over the 2020-2024 period. And it is noteworthy that the entire plan is made in advance of a fleet utilization study commissioned by Alectra that will not be completed until the end of 2019.¹⁶

¹¹ Decision with Reasons, EB-2017-0024, April 6, 2018, page 29

¹² See J1.1

¹³ See for example, Incentive Regulation for Hydro One Transmission, Pacific Economic Group, EB-2019-0082 Exhibit M1, page 10

¹⁴ Vol. 1, pages 152-154

¹⁵ Vol. 1, pages 149-150

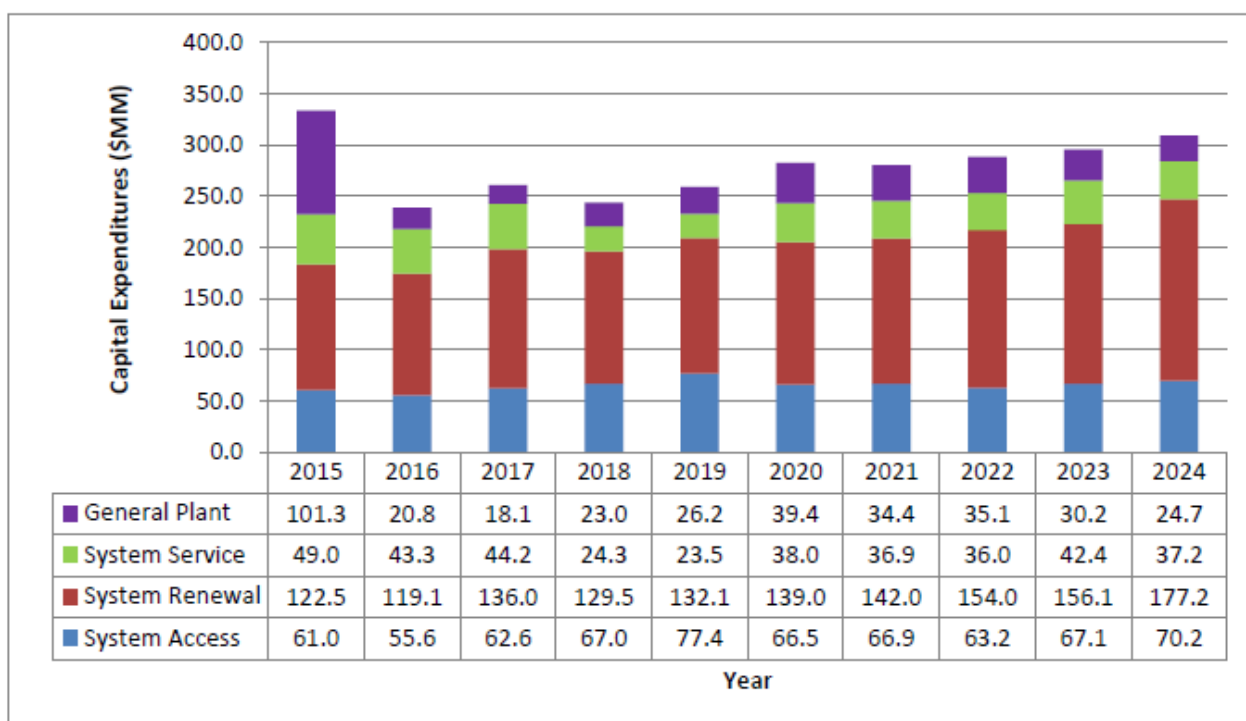
¹⁶ G-Staff-58

29. Clearly fleet costs are not a major driver of costs in the DSP. But the fact that the Utility only just went to the effort to rebrand existing vehicles, would increase fleet spending as compared to the past and do so in advance of a study of utilization shows that our concerns is more than just theoretical. We also observe that the fleet plan appears deficient of expected capital synergies that should arise out of the amalgamation shows. Yet we are not surprised because this type of outcome is to be expected given the perverse incentives inherent in the proposed M-Factor. If approved it would allow the Utility to shift costs from OM&A to capital. Not as part of any nefarious plan of the utility, but simply the result of rationale decision making based on the rate compensation model it has proposed. If capital costs are not restrained, but maintenance costs are, then why should the utility adopt the riskier strategy of maintaining an older vehicle? If so fleet capital why not for poles, rear lots conversion, underground asset renewal or any of the other myriad of distribution assets where a decision between maintenance and replacement must be made?
30. VECC submits that the Board should look at the DSP exactly as contemplated in its previous decisions – as a means of deciding what capital expenditures lend themselves to ICM funding relief. Otherwise it is accepting that half the rate equation (capital) will be determined on a cost of service basis and without any productivity incentives. If the Board is inclined to give credence to the story that it somehow led Alectra down the garden path and now is willing to provide some relief then we hardly see how the relief it seeks should now be applied the Guelph rate zone – a utility it acquired after the “disappointing” decisions of the Board.

The Distribution System Plan

31. Leaving aside the hyperbolic “snowplow” and warnings about the imminent reliability failure, the Alectra DSP provided is similar in nature and result (i.e. more spending than in the past) to that reviewed by the Board in other recent proceedings. The Utility made an assessment of asset condition, brought this information together with other aspects of planning like customer input, compliance requirements and forecast future demands and with the aid of analytical tools ranked capital projects. The relatively new CopperLeaf C55 software, again familiar to the Board from other recent applications and now in vogue among utilities, was used as the primary analytical tool. In Alectra’s view the resulting ranking should not be seen in terms of necessity but rather as a way to prioritize projects in order of urgency of completion so as to minimize safety, compliance (including environmental compliance) and reliability risks. In other words “everything is necessary, but not necessarily is everything equally urgent”.
32. The result is the continuation of the trend since 2015 of ever increasing capital spending (leaving aside the large expenditure on office-facility space in 2015) as shown below:

Figure 5.4.3 - 1: Capital Expenditures (\$MM) by Investment Category (2015-2024)



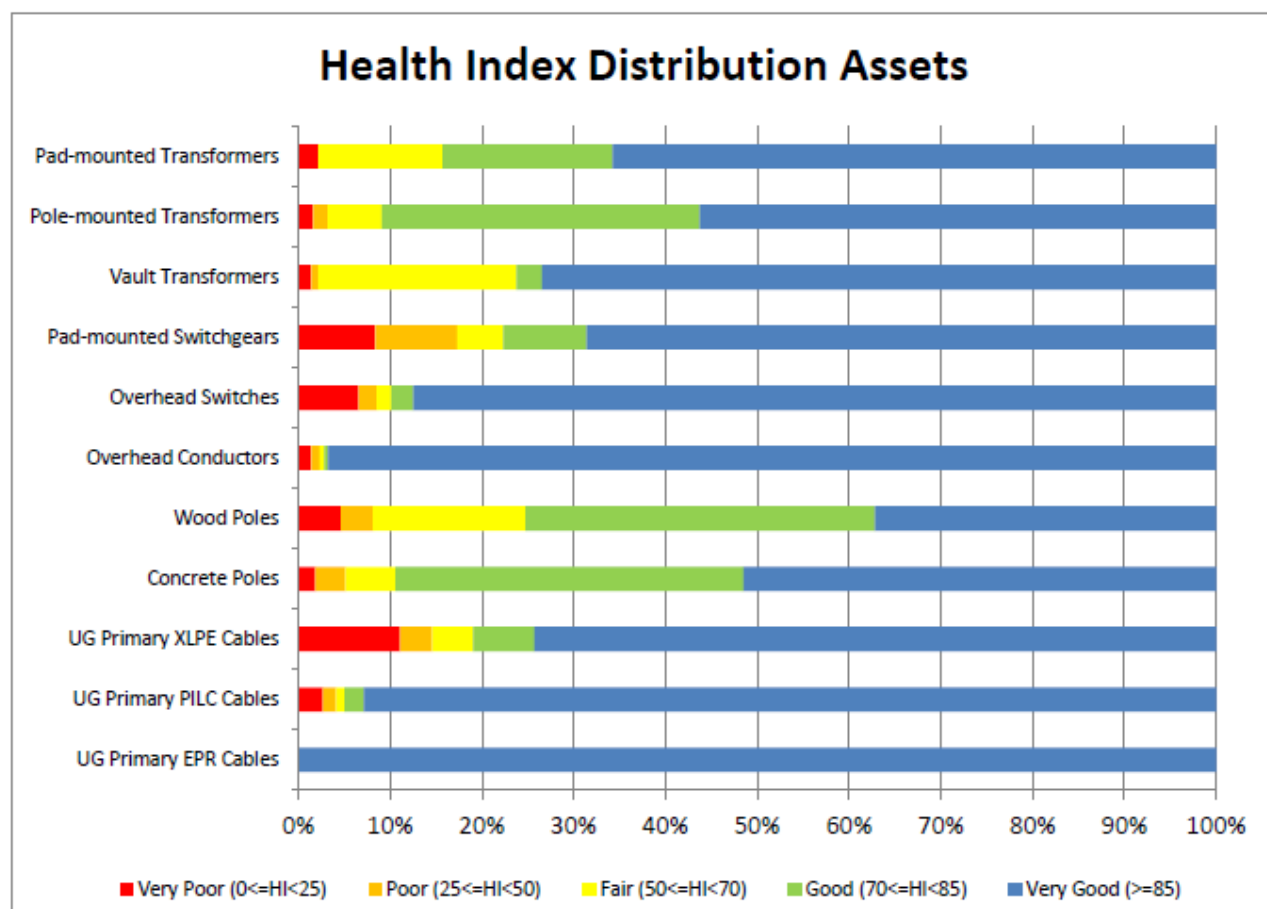
33. In our view Alectra has submitted a robust (if generous) distribution system plan. However like all such plans it is inherently limited in its accuracy. Foremost the information gathered with respect to asset condition is less than perfect. Some asset classes, like large transformers, are subject to detailed physical tests on a periodic basis which provides relatively good information on condition. Other assets, like directly buried cable, are nearly impossible to determine condition. Asset age and general knowledge about the asset class is used to fill this information gap. Alectra, like other electric LDCs improves its planning as time goes on by incorporating more data into its systems.
34. Asset performance as measured by outage frequency (and to a lesser extent) duration also provides feedback on asset conditions. Asset failure data provides an estimate of risk but, when used, is again imperfect. Finally asset analytics introduce more discretion into the planning process by introducing subjective (even if well informed) information.
35. All of which is to say that caution must be had in interpreting the resulting output as articulated as a distribution system plan. Alectra admits as much by proposing an “envelope” approach to the plan to *“effectively, efficiently and flexibly execute the full 5-year investment plan”*¹⁷. That is it acknowledges that things will change and that it would be imprudent to stick to a plan in light of new information. The uncertainty is to such an extent that “reactive capital” in the plan increases from an average of \$17 million annually in the 2015-2019 period to \$19.7 million annually over the 2020-2024 period. That is notwithstanding a large increase in overall capital spending as compared to historical period Alectra is, somewhat

¹⁷ AIC page 13

counterintuitively, projecting a need for capital to address increasing failing asset performance.¹⁸ We certainly understand that as one moves to the outer years of the plan it becomes inherently a less reliable guide to future capital spending. That is the DSP becomes a less reliable source of guidance to capital spending in each successive year.

36. The first step in any DSP is a consideration of the current distribution system. Alectra's asset condition assessment health index is reproduced below:¹⁹

Figure 5.2.3 - 1: Distribution Asset 1 Health Index Summary (2018)



37. What is clear from this chart and reiterated throughout the DSP evidence is the relatively large number of poor condition assets among underground primary XLPE cables (XLPE) and pad mounted switchgear.
38. There also appears to be a correlation as between the asset condition and the associated h outage and outage duration of XLPE assets as shown below²⁰:

¹⁸ Exhibit 4, Tab 1, Schedule 1, Appendix 2-AA, page 370

¹⁹ Exhibit 4, Tab 1, Schedule 1, page 104

²⁰ Exhibit 4, Tab 1, Schedule 1, page 264

Figure 5.3.3 - 29: Number of Outages due to XLPE cable failure

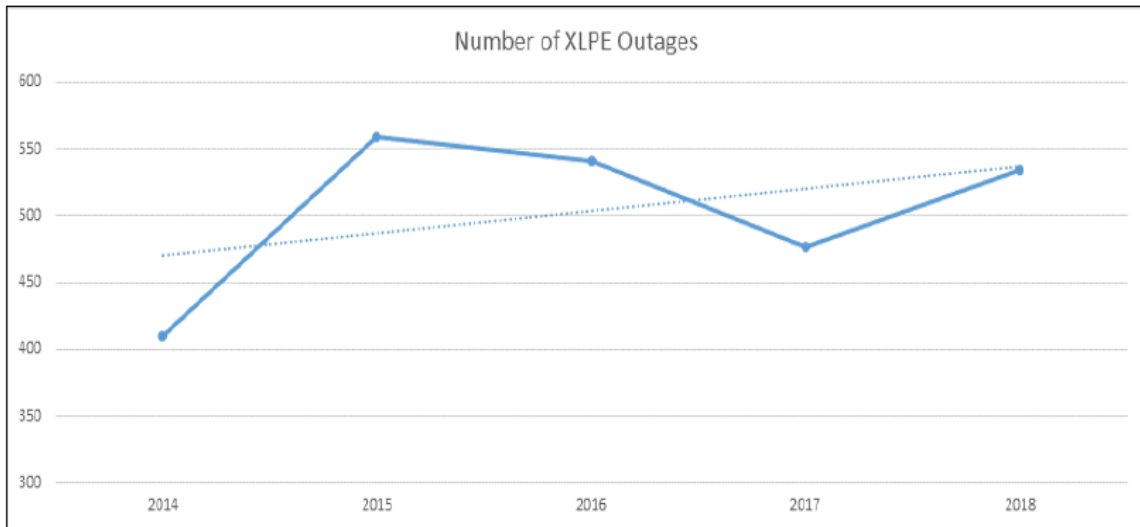
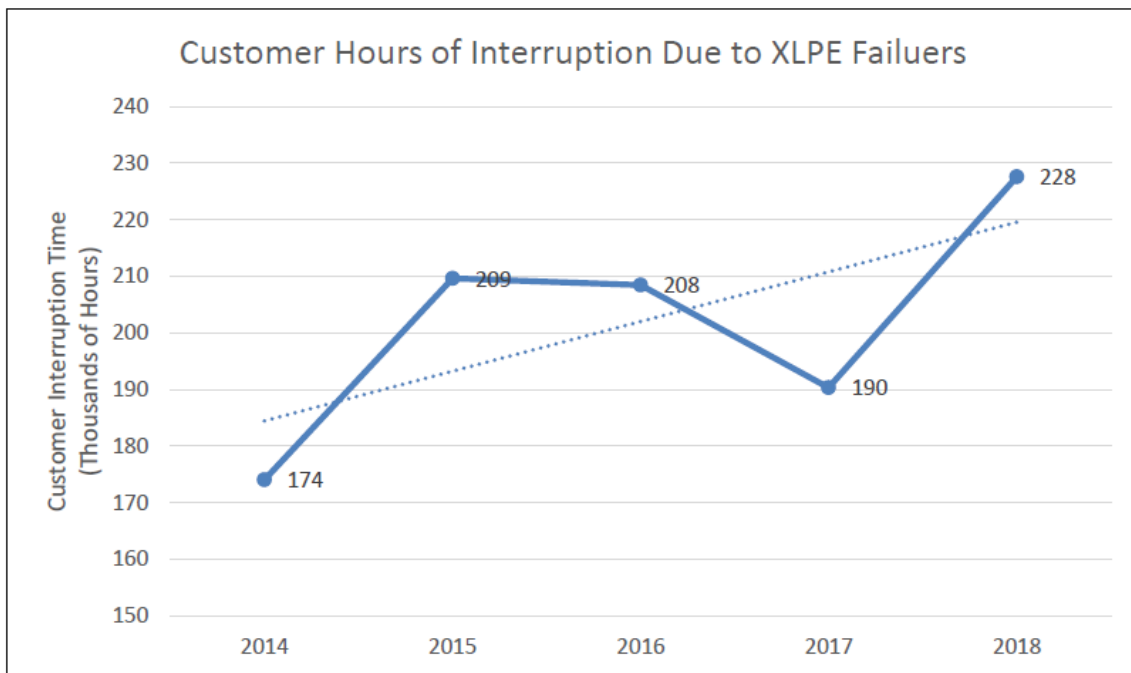


Figure 5.3.3 - 30: Customer-Hours of Interruptions



39. The underground renewal program also represents by far the largest capital expenditure increase in the DSP. During the 5 years 2015-2019 the utilities that made up Alectra spent an annual average of \$45.7 million on underground renewal projects. Alectra proposes to increase the annual average spending to \$80.4 million, or by some 57%.²¹ The underground renewal is almost exclusively at direct buried cable²² and composed of two types of projects –

²¹ Exhibit 4, Tab 1, Schedule 1, Appendix 2-AA, page 370

²² See Technical Conference Undertaking JT2.9 which shows 99.8% of in-duct cables are in very good condition.

cable injection (remediation) and cable replacement. The table below shows the dramatic increase proposed for the cable renewal program²³

Table 1 - Cable Renewal Rate (2015-2024)

Metric	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Cable Replacement (km)	66	72	67	77	82	93	130	140	150	162
Cable Injection (km)	113	71	69	56	134	213	270	305	345	376
Total Cable Renewal (km)	179	143	136	133	216	306	400	445	495	538
2018 Cable Population (km)	22,140	22,140	22,140	22,140	22,140	22,140	22,140	22,140	22,140	22,140
Renewal Rate (Total Cable Renewal / 2018 Cable Population)	0.81%	0.65%	0.61%	0.60%	0.98%	1.38%	1.81%	2.01%	2.24%	2.43%

40. The program is widely applied among the various Alectra rate zones as shown below:²⁴

Table 1: Cable Replacement by Operational Area (2020-2024)

Rate Zone	Method	2020	2021	2022	2023	2024
BRZ	Cable Replacement (km)	8	13	12	11	20
ERZ	Cable Replacement (km)	36	38	45	75	38
PRZ	Cable Replacement (km)	26	51	53	46	74
GRZ	Cable Replacement (km)	3	12	14	7	12
HRZ	Cable Replacement (km)	20	16	16	11	18
	Total (km)	93	130	140	150	162

Table 2: Cable Injection by Operational Area (2020-2024)

Rate Zone	Method	2020	2021	2022	2023	2024
BRZ	Cable Injection (km)	56	35	45	53	57
ERZ	Cable Injection (km)	30	55	62	68	63
PRZ	Cable Injection (km)	93	117	130	156	188
GRZ	Cable Injection (km)	2	31	37	34	34
HRZ	Cable Injection (km)	32	32	31	34	34
	Total (km)	213	270	305	345	376

²³ M-Factor Interrogatory AMPCO-12

²⁴ Technical Conference Undertaking JT2.5

41. Overall the underground renewal program accounts for \$173 million of DSP spending. That represents over 65% of the total \$265 million of incremental costs M-Factor costs. Except that it isn't all M-Factor. Only a subset of all the underground renewal projects are identified as falling into the "M-Factor" category.²⁵ Presumably this is because M-Factor projects do not inherently reflect a ranking priority based on addressing the largest cause of equipment failure. Yet the program is clearly near and dear to the heart of the Utility as articulated by the companies CEO²⁶:

MR. CANANZI: Yes. And maybe I can take over at this point. I think our evidence is quite clear that the population of aging assets is increasing, and so your proposition would be correct, if not every year we weren't facing a greater and greater population.

And really, the sense of urgency in this thing, however way we slice it, is that we're not unique. I think Vanry made the public -- made the statement on record that this is a North American phenomenon. It was experienced as a result of, you know, expansion of communities with underground residential cable.

We're now in the phase where we have to replace this. We have ample evidence of what we've seen coming our way and what we've had to deal with on a very reactive basis.

We're here communicating to you that it is only going to get worse and that there is an increase.

So we're faced with two situations here, two things that are compounding. One is an increasing in population, which we put evidence forward to show you what our demographics looks like within that cable, and then the physical aspects of how cable fails over time, which is also exponential. Those two exponential curves compounded 8 together is what is really driving this thing.

And if we don't get ahead of it, it really -- the result is like the cable just going off like popcorn all over the place, where we're running around trying to put out these fires.

And, you know, and this is -- the analogy that I would put to you as well is that like a light bulb these are very well-understood engineering principles. A light bulb within a high degree of probability will have a life for so many

²⁵ Undertaking J1.2

²⁶ Vol 3, October 18, 2019, page 182-184

hours that it burns. And then once it reaches that hour, there is an exponential failure rate that takes off, and that is exactly the same phenomenon that occurs with cable failures that we're trying to get ahead of and that you need to be proactive with.

42. If all this is true and if the underground renewal program is so central to the “snowplough” thesis than why not apply for a multi-year ICM based on that need? Surely it is not because the ICM policy does not contemplate multi-year projects. We would argue that the prior approval of the “leaking transformer program” shows that it can. But even if we are wrong about ICM policy the Board's policies certainly do not contemplate an M-Factor. Surely it would be simpler to seek to modify the existing policy than invent a brand new one? But this is not desirable because fundamentally an ICM framework constricts the capital program by making it necessary for the Utility to justify any incremental change to the rate that departs from the regulatory compact given in the amalgamation approval.

Deferral Accounts

43. Alectra proposes two different kinds of deferral accounts. The Capital Investment Variance Account, or CISVA, is a proposed mechanism to allow for the refunding of incremental revenue requirement funds provided for projects that were not undertaken or built for less than the forecast cost. The account is symmetrical so it also provides an opportunity for Alectra to recoup costs, up to an amount of \$9.3 million, for project overruns or projects not contemplated.
44. Alectra in its argument- in-chief proposed to expand the use of the CIVA to capture a new higher amount based on a revised calculation of what it calls the “M-Factor threshold”. Specifically:

Alectra Utilities will track and record these amounts within the CIVA, but separately from the M-factor Projects. At such time that Alectra Utilities seeks disposition of the CIVA, any amounts that have been recorded in the CIVA arising from the execution of DSP projects (other than M-factor Projects) which are executed and not funded through base rates based upon the applicable threshold calculation over the 5-year DSP period, to capture

45. In other words, not content with ratepayers picking up \$274 million in incremental capital spending change some numbers and now they would be exposed to needing to pay for a total of \$370.4 million. This increase is not based on any incremental need for capital investment but rather the result of a serendipitous change in a formula's variables. Such a result, we submit, shows the inherent instability and logical deficiency of the entire proposal. It shows why a mechanism used for an ICM project is not transferable as a means of funding an entire distribution system plan. And of course parties have not been given the opportunity to test this last minute amendment.
46. VECC does not support the establishment of the CIVA. If the Board were inclined to create such an account (we suppose based on a figure somewhere between \$265 and \$370 million)

then it should consider what productivity factor would apply to that account. In other proceedings the Board has heard evidence questioning these types of accounts and showing the perverse incentives they incorporate. As an expert tribunal the Board can and should, we submit, bring its broad understanding of this type of mechanism to bear in this application.

47. The second variance account applied for is the Externally Driven Capital Variance Account (EDCVA). VECC potentially supports this account, but perhaps not quite in the way it is being proposed by Alectra. The purpose of this account is to record the difference between the revenue requirements associated with externally driven capital expenditure subject to the *Public Service Works and Highway Act* (PSWHA). While these types of projects might offer ancillary benefits- for example the early replacement of underground plant slated for replacement - they are 100% externally driven. They are also subject to the capital contribution provisions of the PSWHA. Alectra includes within the M-Factor projects currently forecast PSWHA type projects. As we understand it the account is to address any variance in costs of these projects but also would include unanticipated PSWHA projects.²⁷
48. In our submission the Board might provide some relief to Alectra by providing an EDCVA account which captures all projects which attract capital contributions under the provisions of the PSWHA. We continue to hold that the best solution is for all such projects to be removed from any M-Factor -or ICM - proposals and dealt with on a completely separate basis. The Utility could then file for a post facto revenue requirement adjustment once the project is completed. In our view the account could capture interest costs (AFUDC) in order to hold the utility whole.
49. Our proposal for an amended form of the EDCVA proposal has three benefits. First it provides relief to the Utility by allowing it to use funds otherwise directed to these projects for other pressing needs. Second it allows the inherent uncertainty of these projects (i.e. the fact that the Utility neither decides timing nor scope of the project) to be addressed. Finally it allows the reconciliation of contributions paid in aid of construction and the resulting net impact on utility rate base to be considered in a comprehensive fashion.

Just and Reasonable Rates and the Fair Return Standard

50. The Utility make various general arguments about just and reasonable rate making and the fair return standard, but only one submission in particular with which we can wholeheartedly agree:²⁸

In this regard, it is important to note that the OEB is not bound by any of its policies in relation to ICM/ACM funding in the discharge of its fundamental statutory obligation to establish just and reasonable rates for Alectra Utilities.

²⁷ See Technical Conference Vol 1, October 7, 2019, pages 164-166

²⁸ Ibid, page 7

51. In the same way the Board, and this panel of the Board, is not bound by the MAADs policy. It need not continue to allow a 10 year deferred rebasing holiday. That is, it is perfectly reasonable for the Board to find that the only way of ensuring prudent capital investment at a reasonable cost to ratepayers is to order an application to be filed for rates based on cost of service evidence. As noted by Alectra the Board must find rates to just and reasonable. If a cost of service rebased set of harmonized rates meets that objective than that is what must be done.
52. There is also absolutely no evidence in this proceeding that denying the application in whole or part would run afoul of either the fair return standard or result in unjust or unreasonable rates. A decision denying the application in its entirety changes neither the rates nor the capital spending of the Utility. Since the Utility has yet to expend the capital dollars in question, nor would be required to do so by the Board, the resulting rates would remain, as they presumably are today, both just and reasonable.
53. With respect to the fair return standard there is in fact ample evidence that this test is not and will not be breached its denial. In the case of debt holders the evidence is clear that rating agencies have expressed no concern with respect to the ability of Alectra to finance its capital spending. And those reports are cognizant of Alectra's most recent ICM decisions.²⁹
54. Internally, Alectra also has an expectation significantly less than what it has applied for. In its cross-examination with SEC it became clear that the Utility itself has an expectation of earnings based on significantly less capital spending than presented in this application as shown in the table below extracted from the financial plan.³⁰

Table 4: ICM per Rate Zone by Year (\$MMs)

ICM Revenue	2018	2019	2020	2021	2022	Total	2023
Prior Year ICM Recovery	4.9	5.7	8.1	11.7	15.3	45.7	18.9
Incremental ICM Relief Sought:							
PowerStream RZ	—	1.5	1.2	1.2	1.2	5.1	1.2
Enersource RZ	—	0.9	1.2	1.2	1.2	4.5	1.2
Horizon Utilities RZ	—	—	1.2	1.2	1.2	3.6	1.2
Brampton Hydro RZ	—	—	—	—	—	—	—
Total Incremental Relief	—	2.4	3.6	3.6	3.6	13.2	3.6
Total ICM Revenue	4.9	8.1	11.7	15.3	18.9	58.9	22.5
Less: 50% Recovery Assumption	—	(1.2)	(3.0)	(4.8)	(6.6)	(15.6)	(8.4)
Total ICM - 2019 Plan	4.9	6.9	8.7	10.5	12.3	43.3	14.1
Total ICM - 2018 Plan	7.0	10.3	16.0	20.3	23.6	77.2	N/A
Difference	(2.1)	(3.4)	(7.3)	(9.8)	(11.3)	(33.9)	N/A

Exhibit K2.5

²⁹ See 3.0-VECC-11 Attachments

³⁰ Vol. 3, pages 73-75

55. What this demonstrates is that the Utility's own business planning is based on an expected capital investment level much different than that proposed to the Board. Nowhere in the business planning is presented the issue raised that Alectra may need to face dramatic choices between capital investments and earning a reasonable rate of return.
56. Even it were to be able to show that lower returns are possible in the short term this would still not violate the standard established as can be demonstrated by its own extracts from Supreme Court decision³¹.

"...utilities must be allowed, over the long run, to earn their cost of capital, no more, no less".

"(t)his 7 means that that the utility must, over the long run, be given the opportunity to recover, through the rates it is permitted to charge, its operating and capital costs.... "

Over the long run, unless a regulated utility is allowed to earn its cost of capital, further investment will be discouraged

(emphasis added)

57. Alectra is apparently under the misapprehension that they are entitled to a given return. This is not correct – they are provided only the opportunity to earn a reasonable return. The regulator can (and has) established what it believes to be a reasonable market rate of return. However, regulation acts as a proxy for the market, and utilities just like companies in a competitive market can face periods of high or low returns – or even losses. It is perfectly conceivable for a utility to have lower than anticipated returns while still charging just and reasonable rates and the opposite is true. If, as the Courts have noted, over the long run, there is a deviation from the expected rate of return, then the regulator has a responsibility to examine the cause. But the simple fact of low returns does not make for unjust or reasonable rates. It could be that revenues have declined for reasons beyond control, like weather. Or, just as might be the case for a non-monopoly company, the reason for short term earning decline is because of capital investments being made in anticipation of future earnings. It is also possible for low returns to be demonstrative of an unreasonably prolific (perhaps with an inordinately large capital budget) or otherwise poorly managed utility. In this case the regulator is reasonable to find that ratepayers are not obligated pay more simply to ensure an ongoing profit to shareholders. Regulators are expected to mete out discipline akin to what competitive markets would do precisely because of the inelasticity of demand that is inherent in the monopoly nature of the service.
58. In any event Alectra has not provided any evidence it has or might be unable to earn the approved rate of return. In fact all evidence from past performance is to the contrary. In our submission the Applicant's arguments that the Board is somehow constrained by issues of just and reasonable rates or fair return standard fail both on the facts in this case and in the application of the law. The Board should, in our view, dismiss these submissions as simply wrong.

³¹ AIC, pages 9-10

Implementation Date

59. Alectra filed its application on May 28, 2019. This is a month shy of the Board's general guidance to LDCs seeking rebasing³². In addition the Board has made procedural arrangements to separate the IRM aspects of the Application from the M-Factor issues. Since it is our submission that the M-Factor proposition should be denied then there is no implementation need to be considered. However, we also argue for the establishment of a broader EDCVA. We believe a modified EDCVA account could be established with any IRM rate adjustments so as to be effective as early as possible.

Reasonably Incurred Costs

60. VECC submits that it has acted responsibly and efficiently during the course of this proceeding and requests that it be allowed to recover 100% of its reasonably incurred costs.
Reasonably Incurred Costs

ALL OF WHICH IS RESPECTFULLY SUBMITTED

NOVEMBER 18, 2019

³² See for example, Applications for 2019 Electricity Rates, OEB letter December 7, 2017