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November 29, 2019

RESS, EMAIL & COURIER

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

Attention: Ms. Christine E. Long

Dear Ms. Long:

Re: Alectra Utilities Corporation ("Alectra Utilities") – Application for Distribution Rates and Other Charges Effective January 1, 2020 – Applicant's Reply Submission re M-factor Proposal (OEB File No. EB-2019-0018)

We are legal counsel to Alectra Utilities in connection with the above-referenced proceeding. Pursuant to Procedural Order No. 1, please find enclosed Alectra Utilities' Reply Submission regarding the M-factor Proposal set out in its Application. Copies have been filed on RESS and served on each party in the proceeding.

Yours truly,

for Jonathan Myers

Enclosure

cc: Ms. Indy Butany-DeSouza, Alectra Utilities
Mr. Charles Keizer, Torys LLP
All Parties

ONTARIO ENERGY BOARD

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

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

REPLY SUBMISSION

ALECTRA UTILITIES CORPORATION

November 29, 2019

A. INTRODUCTION

Alectra Utilities Corporation ("Alectra Utilities" or the "Applicant") filed an application with the Ontario Energy Board ("OEB" or the "Board") on May 28, 2019, under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to its electricity distribution rates for each of its Horizon Utilities, Brampton, PowerStream, Enersource and Guelph Hydro rate zones ("RZs") to be effective January 1, 2020 (the "Application"). As part of the Application, Alectra Utilities filed its first five-year Distribution System Plan ("DSP") on an integrated basis for its entire service area. Alectra Utilities is requesting, among other things, approval for incremental capital funding based on a rate-adjustment mechanism that reconciles the capital needs set out in the DSP with the capital-related revenue in rates (the "M-factor").

As set out in Procedural Order No. 1, the OEB is hearing the M-factor aspects of the Application separately from the other aspects of the Application. The M-factor elements of the proceeding include issues related to the M-factor proposal, the consolidated DSP and two deferral accounts – the Capital Investment Variance Account ("CIVA") and the Externally Driven Capital Variance Account ("EDCVA").

This is Alectra Utilities' Reply Submission in respect of the M-factor elements of the proceeding.

B. OVERVIEW

For the reasons that follow, the elements relating to the M-factor portion of the proceeding should be approved as filed, and as updated and further articulated by the Applicant during the proceeding.

The Application is about identifying the best mechanism to provide incremental capital funding for Alectra Utilities, to enable execution of its DSP, through just and reasonable rates. Alectra Utilities' consolidated five-year DSP establishes a capital investment need that is informed by and in the best interests of its customers, but it is not fully funded by the amount of capital in the utility's base rates. The incremental capital funding that is requested through the M-factor, and for tracking in the CIVA, will enable Alectra Utilities to fully execute its DSP for the benefit of its customers. The DSP prioritizes the most important system investment needs to address reliability, service and other imperatives, consistent with identified customer preferences and expectations. The monthly bill impacts of the proposed M-factor riders are not material, but they provide customers with assurance that the necessary investments are being funded and executed, while also providing customers with rate certainty and stability.

In the sections that follow, Alectra Utilities responds to the submissions of OEB staff and intervenors by addressing the following aspects:

- The legal framework applicable to the OEB;
- Alectra Utilities' understanding of the policy framework is reasonable and correct;
- The M-factor is consistent with the MAADs policy;
- The M-factor is consistent with IRM and does not equate to CIR;
- The M-factor produces a fair result and does not create a bad precedent;
- The requested variance accounts are appropriate;
- Alectra Utilities' DSP, including its robust customer engagement process, comprehensive assessment of reliability needs and disciplined approach to investment planning, provides a sound basis for the M-factor proposal; and
- Other specific proposals made by parties in their submissions are without merit and should be rejected.

C. THE APPLICABLE LEGAL FRAMEWORK

In its Argument-in-Chief ("AIC"), Alectra Utilities set out three main points regarding the OEB's jurisdiction relating to this Application. First, whenever the OEB establishes rates for the distribution of electricity, it must do so in accordance with the just and reasonable standard.[1] Second, subject to its duty to ensure that rates are just and reasonable for both the utility and ratepayers, the OEB has broad latitude to determine the methodology it uses to determine rates.[2] Third, if the OEB rejects the M-factor but approves the DSP (or any part of it in excess of that which is funded by base rates) and there is insufficient capital funding to execute the approved elements of the DSP, then Alectra Utilities' rates would not be just and reasonable since the utility would not be able to make the investment or earn a fair return.[3]

In support of the foregoing, Alectra Utilities relied on the OEB Act and the Supreme Court of Canada's (SCC) decision in *Ontario Energy Board v. Ontario Power Generation Inc. et.al.* (the "OPG Case"). In particular, in the OPG Case the Supreme Court states that

> just and reasonable rates must be those that ensure consumers are paying what the Board expects it to cost to efficiently provide the services they receive, taking account of both operating and capital costs. In that way, consumers may be assured that, overall, they are paying no more than what is necessary for the service they receive, and utilities may be assured of an opportunity to earn a fair return for providing those services.[4] (emphasis added)

The foregoing is a simple, but very meaningful statement that underscores the duty of the OEB to establish rates that are just and reasonable. The efficient provision of utility services and assurance of an opportunity to earn a fair return are the two sides of the just and reasonable coin. Rates cannot be set to achieve one element but not the other, and both elements must be satisfied in all circumstances. If costs are reasonable and prudent such that ratepayers are paying no more than necessary, then the utility should have an opportunity to recover those costs so that it may earn a fair return. It is a balance underpinned by fairness to both ratepayers and shareholders. In the current Application, if the OEB accepts the DSP on the basis that the planned investments are

[1] Alectra Utilities' Argument-in-Chief, November 1, 2019 ("Argument-in-Chief"), pp. 9-10.

[2] Ibid., pp. 11-12.

[3] Ibid., pp. 10-11.

[4] *Ontario (Energy Board) v. Ontario Power Generation Inc*., 2015 SCC 44 ("OPG Case"), para 20.

reasonable and prudent, such that Alectra Utilities is expected to execute the plan for the benefit of its ratepayers, then incremental funding must be available to ensure an opportunity to earn a fair return in accordance with the just and reasonable standard.

SEC's assertion that "the Fair Return Standard is not immutable" is not a correct statement of the law.[5] SEC is also wrong, in asserting that, in establishing just and reasonable rates, there are times when the OEB can apply the fair return standard and there are times when it can completely ignore it.[6] SEC is wrong again when it argues that the OEB can ignore reasonable and prudent costs and not provide for their recovery when establishing just and reasonable rates. These claims are grounded in an incorrect interpretation of the law and reflect a failure to fully appreciate that the statutory context imposes a duty on the OEB, when it establishes rates, to establish those rates in accordance with the just and reasonable standard.

In addition, SEC relies on an incorrect understanding of the facts underpinning the SCC decision in the OPG Case and also of the *ratio decidendi*, meaning the "reason for the decision and legal principles on which the court's decision rests". SEC states that the appeal before the SCC related to a determination of the OEB to disallow rate recovery of forecast remuneration costs.[7] This is not accurate. The facts before the SCC were that the OEB had denied the recovery of remuneration costs that were committed costs by virtue of a binding collective bargaining agreement and which therefore were not avoidable, as in the case of purely forecast costs. The SCC characterized "committed costs" as those costs which, if a regulator disallows recovery in approved rates, the utility and its shareholders would themselves bear. The issue before the SCC was whether the OEB acted reasonably in denying such committed costs and whether the resulting rates were just and reasonable since, in denying those costs, the OEB did not apply the "no-hindsight" and

[5] Final Argument of the School Energy Coalition, November 15, 2019 ("SEC Submission"), para 2.2.7.

[6] In the OEB's Report of the Board on the Cost of Capital for Ontario's Regulated Utilities (EB-2009-0084), issued December 11, 2009, the OEB states that the Fair Return Standard "frames the discretion of a regulator", that "meeting the standard is not optional; it is a legal requirement" and adopts a comment made by Enbridge in the proceeding that the Supreme Court in *British Columbia Electric Railway Co. Ltd. v. Public Utilities Commission of British Columbia et al* [1960] S.C.R. 837, at p. 848 has "described this requirement that approved rates must produce a fair return as an 'absolute' obligation".

[7] Ibid., para 2.2.3.

presumption of prudence standard[8] and the utility would not be fully funded for its cost of capital by virtue of the denial.[9]

An understanding of the correct facts is necessary to fully understand what the OPG Case stands for and how it should be applied in the current circumstance, as well as to show how it has been misinterpreted and misapplied by SEC. In ruling that the OEB acted reasonably in denying recovery of the committed costs, the SCC concluded the following:

(i) The question of whether the OEB's decision to disallow recovery of certain costs was reasonable turns on how that decision relates to the OEB's statutory and regulatory powers to approve payments to utilities and to have those payments reflected in rates paid by ratepayers – referred to as the regulatory framework by the SCC;[10]

(ii) The just-and-reasonable approach to recovery of the costs of services provided by a utility captures the essential balance at the heart of utilities regulation; to encourage investment in a robust utility infrastructure and to protect consumer interests, utilities must be allowed, over the long run, to earn their capital cost, no more, no less;[11]

(iii) Where a statute requires only that the regulator set "just and reasonable" rates, as in the case of the OEB Act, the regulator may make use of a variety of analytical tools in assessing the justness and reasonableness of a utility's proposed rates;[12] and

(iv) Given the foregoing, it was reasonable to use a method other than the no-hindsight prudence review and to not permit a presumption of prudence.[13]

This is the essence of the SCC's decision, and what it stands for is that the OEB is governed by its regulatory framework, which requires the setting of rates that are just and reasonable on the basis that, on the one hand, such rates encourage investment in a robust utility infrastructure and, on the other hand, such rates protect customer interests by permitting the utility to earn no more than a fair return on that investment. The OEB's regulatory framework also permits the OEB to use a variety of methodologies in establishing rates as long as the just-and-reasonable approach is

[8] The standard that applied prior to the OEB's ruling in the OPG Case was that for committed expenditures (including both operating and capital costs) there was a presumption of prudence and a review that precluded the application of hindsight, meaning the facts were to be assessed as known by the utility at the time the commitment was made.

[9] OPG Case, para. 81.

[10] Ibid., para. 75.

[11] Ibid., para. 76.

[12] Ibid., para. 103.

[13] Ibid., para. 104.

adhered to. This regulatory framework, as set out by the Supreme Court, is the key aspect of the decision in the OPG Case that is applicable in the current Application. These aspects are not *obiter dicta*, in reference to the non-binding aspects of the decision stated in passing, as asserted by SEC.[14]

The OPG Case does not stand for the proposition that "the Board can disallow costs even when the result would be that the Applicant will not earn a fair return" as asserted by SEC.[15] SEC goes further to say that, based on the OPG Case, not all prudent capital costs need to be recovered in order to comply with the Fair Return Standard.[16] This statement alone shows why a correct understanding of the facts and result of the OPG Case is important and demonstrates how badly SEC has misinterpreted and misapplied the case. There is no aspect of the OPG Case that involves a circumstance where a cost was found to be prudent and the OEB decided to not permit OPG to recover such cost in its rates. As a result, there is no point in the decision where the SCC determined it was acceptable for the OEB to conclude a cost was prudent and to permit that prudent cost to be excluded from the possibility of recovery when setting just and reasonable rates. The finding of the OEB that was under appeal to the SCC was that the OEB disallowed the recovery of the remuneration costs as being unreasonable. The principle asserted by SEC is therefore wrong in law.

SEC has conflated the two concepts of "not earn its cost of capital" and "not earning a fair return".[17] Whereas the former occurs because of a disallowance of an expense that cannot otherwise be avoided by the utility because of a finding of imprudence or unreasonableness by the regulator (as in the OPG Case), the latter is the return earned by the utility on the recovery of all prudent and reasonable costs as determined by the regulator through just and reasonable rates. If costs are found to be prudent and reasonable, then the utility through just and reasonable rates has a right to recover those costs and thereby earn a fair return.

This is what Alectra Utilities is asking for in the current Application by asking that the OEB apply its regulatory framework. If the OEB finds that the capital expenditures planned under the DSP

[14] SEC Submission, para 2.2.11

[15] Ibid., para 2.2.6.

[16] Ibid., para 2.2.10.

[17] SEC Submission, para 2.2.6 and 2.2.7.

are reasonable, Alectra Utilities should be permitted to recover the cost of the M-factor projects (which by definition are comprised of investments not funded by base distribution rates) through incremental capital funding established through just and reasonable rates. To find such investments are reasonable without approving a funding mechanism would mean that Alectra Utilities would be expected to fund capital in the interests of its customers, but in so doing its rates would not reflect a fair return, contrary to the just and reasonable standard.

In this regard, SEC mischaracterizes Alectra Utilities' request for relief by describing it as a capital pass-through.[18] Alectra Utilities is not seeking to have the incremental capital treated as a pass-through. It is, as described above, seeking that the OEB approve the DSP and in so doing find the planned capital expenditures to be reasonable such that incremental capital funding can be provided through just and reasonable rates.

VECC, in its submissions, also misconstrues the fair return standard by equating fair returns, considered at the time just and reasonable rates are set, with financial returns that could be earned and that could vary in the ordinary course of business. In VECC's view, Alectra Utilities would have to show that its inability to earn its approved rate of return or its financial hardship would be indicative of a whether it would earn a fair return. VECC seems to imply that if Alectra Utilities can implement the DSP without such financial difficulty then it continues to earn a fair return. In this regard, VECC points to parsed wording of the OPG Case that makes reference to utilities being allowed "over the long run" to earn their cost of capital.[19]

However, this reference in the OPG Case is taken out of context. The SCC explains that, in the "short run", return on equity could vary for operational reasons such as, for example, higher or lower electricity consumption.[20] These types of operational variations are the kind of variations described by VECC. Returns could vary after rates are approved since the costs or quantities underpinning those rates may vary. However, this does not diminish the fair return standard applicable at the time just and reasonable rates are set, which rates must include funding for all approved costs. If costs are approved, then funding in rates must be provided in order to provide

[18] SEC Submission, para 2.2.10

[19] Submission of the Vulnerable Energy Consumers Coalition, M-factor, November 18, 2019 ("VECC Submission"), para 56-58.

[20] OPG Case, para. 17.

for an opportunity to earn a fair return. This applies even for incremental costs during an IRM period.

In this regard, SEC disagrees stating that the fair return standard does not apply to the setting of rates during an IRM period. Indeed, SEC is quite emotional in its view asserting that the determination of just and reasonable rates to recover capital spending during an IRM is no less than a direct attack on IRM.[21] Despite SEC's emotional plea, SEC is wholly wrong in its assertion, both in law and in policy.

SEC states that there is no legal precedent that the just and reasonable rates standard, inclusive of a fair return, applies to IRM. SEC's view is based on its observation that the OPG Case makes no mention of it and deals with a circumstance that is cost of service.[22] However, this is not correct as the OPG Case is a statement of the OEB's Regulatory Framework as governed by its statutory duty to establish just and reasonable rates. The OEB is not excused from that statutory duty because it has created a rate making construct like IRM. As indicated by the SCC, the OEB Act permits the OEB to adopt a variety of analytical tools, but it must exercise those tools for the purposes of establishing just and reasonable rates, which are inclusive of the fair return standard.

SEC correctly states that the IRM is intended to decouple revenues from costs such that the utility can manage controllable costs independent of revenue earned. However, this is premised on the utility operating during the IRM term within the revenue envelope that is based on approved rates, where those rates were previously assessed as just and reasonable at the time they were approved and a fair return could be earned based on those rates. Just and reasonable rates and the fair return standard are therefore inherent in IRM.

SEC refers to ICM as an exception to IRM. SEC fails to consider that underpinning ICM and the determination of the resulting riders, if approved, is the requirement to establish just and reasonable rates inclusive of the obligation to provide for a fair return. At its simplest, ICM is a mechanism to fund incremental capital costs that cannot be funded in base rates. To administer the ICM, the OEB introduced the materiality threshold as a means to determine capital projects

[21] SEC Submission, para 2.2.15.

[22] Ibid., para 2.2.12.

eligible for incremental capital funding, inclusive of a dead band. The ICM permits a utility to obtain funding to execute incremental capital investments that are found to be prudent, because if the utility did so in the absence of ICM riders it would not earn the fair return which underpins its base rates. Just and reasonable rates and the fair return standard apply to both base rates and ICM riders. The existence of just and reasonable rates during an IRM period is not "a direct attack" on IRM – it is instead a fundamental part of IRM. SEC's submissions should be wholly ignored.

As noted in the submissions below, the same legal and policy reasoning applies to the M-factor. Alectra Utilities has incremental capital funding that cannot be funded in base rates and if the M-factor projects are approved (as in the case of ICM projects), then incremental capital must be provided to establish just and reasonable rates. The issue in this Application is not whether incremental funding and the inherent need for just and reasonable rates premised on the fair return standard should occur during an IRM period. The issue in this Application is what is the form of the incremental capital funding that should apply in order for Alectra Utilities' rates to be just and reasonable.

D. POLICY & REGULATORY FRAMEWORK

1. Alectra Utilities' Understanding of the Policy Framework is Reasonable and Correct

Contrary to the submissions from OEB staff and most intervenors, Alectra Utilities' understanding of the OEB's ICM policy in the context of consolidating distributors is entirely reasonable and, at least at the time it entered into the transaction, was firmly grounded in the OEB's articulation of that policy.

OEB staff argues that "Alectra Utilities' predecessor utilities knew or ought to have known that the ability to recover incremental capital during a deferred rebasing period is limited . . . the ICM allows for the recovery of discrete and significant capital projects and the (ACM Report) is clear that the ICM is not to be used for expenditures that fit within typical annual capital programs".[23] OEB staff further states that it does not agree that the OEB's MAADs policies provide for a separate set of ICM criteria for post-consolidation situations, whereby consolidated distributors are permitted ICM recovery for "normal and expected capital investments".[24] OEB staff then says

[23] OEB staff Submission, p. 5.

[24] Ibid., p. 10.

that "Alectra Utilities has relied on a five-word excerpt from the MAADs Report read in isolation . . .". Reviewing this sentence in context, the OEB was clearly not setting out a new MAADs ICM condition, but rather simply clarifying that a distributor can apply for capital funding as long as it meets the ICM requirements.[25] With respect, as set out below, OEB staff and the intervenors who made similar arguments[26] are incorrect.

The starting point for this analysis is the OEB's *Report of the Board, New Policy Options for Funding of Capital Investments: The Advanced Capital Module*, issued on September 18, 2014 in EB-2014-0219 (the "ACM Report"), which expanded the types of investments that are eligible for incremental capital funding under both ACM and ICM. In particular, the ACM Report established that ICM during an IR term would no longer be limited to nondiscretionary projects, that any discrete project adequately supported by a DSP would be eligible for ACM funding subject to capital funding availability flowing from the materiality threshold formula results, and that the same approach would apply going forward to new projects proposed as ICMs during the Price Cap IR term.[27] It is this report that OEB staff and other intervenors point to as the basis for their view that the ICM is not to be used for typical annual capital expenditures, and that Alectra Utilities knew or should have known this to be the case from the time of its merger. However, those parties fail to account for the significance of the OEB's further articulation of its policy in the context of utility consolidation and the timing of that further policy guidance relative to Alectra Utilities' consolidation transaction.

Approximately six months after issuing the ACM Report, on March 26, 2015 in EB-2014-0138, the OEB issued its *Report of the Board: Rate Making Associated with Distributor Consolidation* (the "MAADs Policy"), which as its title indicates was focused specifically on rate making in the context of distributor consolidation. The context for the MAADs Policy was that, after issuing the *Renewed Regulatory Framework for Electricity* ("RFE") in October 2012, the OEB held consultations in early 2013 to identify policies and processes affecting the ability of distributors to

[25] Ibid., pp. 10-11.

[26] See Submission of Building Owners and Managers Association, Greater Toronto, November 14, 2019 ("BOMA Submission"), p. 8; Final Argument of Consumers Council of Canada, November 18, 2019 ("CCC Submission"), pp. 10-11; Submissions of Energy Probe Research Foundation on the M-factor, Capitalization, and other Issues, November 14, 2019 ("Energy Probe Submission"), pp. 3-6; SEC Submissions, supra note 5, pp. 4-5, 12-14; VECC Submission, supra note 18, p. 9.

[27] ACM Report, p 15.

realize efficiencies. In an OEB staff discussion paper that informed the MAADs Policy, OEB staff noted certain concerns raised during the consultations about capital funding for consolidating distributors. In particular, OEB staff heard that few distributors would be able to operate over an extended rebasing period without being able to incorporate "normal capital expenditures" into their rate base. Further, distributors were concerned they would be forced to choose between early rebasing to address capital spending, or delayed rebasing to enhance the viability of a consolidation transaction, all of which was recognized as having a dampening effect on consolidation, which was seen as a source of significant efficiencies in the sector.[28]

Based on this feedback, the Staff Discussion Paper stated that "one approach that Board staff believes warrants consideration would be to allow merged distributors who are under any of the three rate setting methodologies to use the same ICM model during a deferral period, and to expand the eligibility criteria to include normal capital investments".[29] This could be seen as contemplating a distinct set of ICM eligibility criteria for merged distributors. During the EB-2014-0138 proceeding, the OEB received further comments along these lines from LDC participants such as the Electricity Distributors Association, which recommended that the eligibility criteria for ICM be expanded to include "normal capital investments" between the rebasing periods after a MAADs transaction,[30] and the Coalition of Large Distributors, which recommended a less onerous form of ICM.[31] Again, these comments called for a distinct set of ICM eligibility criteria for merged distributors.

Although OEB staff and intervenors in the current Application argue that the MAADs Policy did not change the OEB's ICM policy or establish a separate set of ICM criteria for post-consolidation situations[32], it is plain from the face of the MAADs Policy that this is what it did, based on the

[28] OEB staff Discussion Paper, *Review of the Board's Polices and Processes to Facilitate Electricity Distributor Efficiency: Service Area Amendments and Rate-Making Associated with Distributor Consolidation* (EB-2014-0138), March 31, 2014 (the "Staff Discussion Paper"), pp. 13-14.

[29] Ibid., p. 15 (emphasis added).

[30] Electricity Distributors Association Submission, May 5, 2014 (EB-2014-0138), p. 5.

[31] Coalition of Large Distributors Submission, May 5, 2014 (EB-2014-0138), p. 11.

[32] OEB staff Submission, pp. 10-13; SEC Submission, paras 2.3.7, 2.3.8; BOMA Submission, paras 19-20; CCC Submission, p. 11.

consultation process that led up to the change. This is clear from the introduction in the MAADs Policy, which unambiguously states as follows:

> After considering the government's policy expectations, the results of the consultations, and the OEB's own expectations that the distribution sector should continue to seek out efficiencies especially through consolidation, the OEB has concluded that it will proceed at this time with amendments to its rate-making policy associated with electricity distributor consolidation.
>
> This Report sets out the OEB's amendments to its rate-making policy for electricity distributors following a MAADs transaction.
>
> The OEB has identified two specific policy matters that it intends to address at this time:
>
> - The duration of the deferral period for rebasing following the closing of a MAADs transaction; and,
> - A mechanism for adjusting rates to reflect incremental capital investments during the deferred rebasing period.
>
> The amendments to the OEB's policy in relation to each of these matters are discussed below. The OEB has also provided clarification regarding the incentive rate mechanism that will apply to a distributor during a rebasing deferral period.[33]

Of particular note is the statement from the OEB, in the above quote, that the MAADs Policy "sets out the OEB's amendments to its rate-making policy for electricity distributors following a MAADs transaction". Given that the MAADs Policy expressly amends the OEB's rate-making policy for distributors following a MAADs transaction, the argument from parties that there has not been a separate set of ICM criteria for merged distributors is incorrect. OEB staff's assertion that Alectra Utilities' understanding of the OEB's policy relies exclusively on five words in the MAADs Policy that it has read in isolation and unreasonably misinterpreted is also incorrect. Rather, it is OEB staff and intervenors that conveniently ignore the full context of the OEB's expressed policy, which was the outcome of a thorough consultation process and a concerted effort on the part of the OEB to address government policy expectations, and its own expectations, by removing barriers to distributor consolidation as a means of achieving efficiencies in the sector.

[33] MAADs Policy, p. 4 (emphasis added).

In the MAADs Policy, beginning at p. 7, the OEB summarizes the concerns it heard from stakeholders regarding the limitations on the ability to reflect incremental capital in rates during a rebasing deferral period as being a key impediment to distributor consolidation. The OEB noted the concern that, if distributors who are considering a MAADs transaction know that they have the ability to apply to the OEB for the inclusion of "on-going capital investments" into rate base during the rebasing deferral period, they may be more willing to consider consolidation.[34] Given that ICM eligibility at that time was limited by the criteria set out in the ACM Report, it is clear that consideration of "on-going capital investments" was in reference to the host of normal, everyday or typical capital investments that are fundamental to distribution system operations but which could not be funded through ICM. The OEB then states the following (emphasis added):

> The OEB believes that the clarification set out in the September 18th Report establishes that a distributor may now apply for an ICM that includes normal and expected capital investments. This clarification of policy should address the need of those distributors who may not consider entering into a MAADs transaction due to concerns over the ability to finance capital investments.
>
> The one remaining limitation is that the ability to apply for an ICM continues to be limited to those distributors under the Price Cap IR . . . The question that needs to be addressed, in the OEB's view, is the situation where one or more distributors that are part of a MAADs transaction are operating under Custom IR or Annual IR and the impact of the ICM policy for the combined entity.[35]

The significance of the first paragraph, excerpted above, has caused some debate in the present proceeding. Intervenors and OEB staff take the view that it is not a new statement of policy, only a restatement of policy set out in the ACM Report, and that as a result there is a single ICM policy that applies equally to all distributors, whether or not they have merged and are in a rebasing deferral period, and that Alectra Utilities knew or ought to have known this at the time of its merger.[36] Alectra Utilities disagrees.

The context for the first paragraph excerpted above is that it is in a document which, as highlighted above, has been prepared for the stated purpose of amending the OEB's rate-making policy for

[34] MAADs Policy, p. 8.

[35] Ibid., pp. 9-10.

[36] OEB staff Submission, p. 11; SEC Submission, paras 2.3.7, 2.3.8; BOMA Submission, paras 19-20; CCC Submission, p. 11.

distributors following a MAADs transaction. One of the ways the OEB, in the introductory section of the document, says it is intending to amend its policy is with respect to the applicable mechanism for adjusting rates to reflect incremental capital investments during the rebasing deferral period. In the first sentence of the paragraph, the OEB refers to the fact that the ACM Report itself provided certain clarifications. However, the overriding purpose of the paragraph is for the OEB to provide *further* clarification of its policy specifically for merged or potentially merging distributors. Given the concerns raised during the consultation, it was clear that there was a need for such further clarification of the OEB's policy as it related to merged distributors. It was also clear in the circumstances that the OEB did not consider its ACM Report to have properly articulated its policy with respect to the funding of incremental capital for merged distributors. The further clarification that is provided here – that a distributor may now apply for an ICM that includes "normal and expected capital investments" - is one of the key policy amendments articulated by the OEB in the MAADs Policy.

The words in the second sentence of the first paragraph excerpted above are also significant. They specifically reference the concern cited earlier in the MAADs Policy that few distributors would be able to operate over an extended rebasing period without the ability to fund "normal capital expenditures". The OEB is articulating and amending its generally applicable ICM policy for the specific purpose of removing an identified barrier to LDC consolidation. Notably, the OEB then states in the subsequent paragraph excerpted above that, after removing this barrier (i.e., the ability to fund normal and expected capital expenditures during the rebasing deferral period), there is only "one remaining limitation" on the ability for a merged distributor to seek funding for its capital expenditures during the rebasing deferral period. That one remaining limitation is unrelated to the nature of the expenditures that would be eligible for incremental capital funding. This reinforces the meaning of the prior paragraph, which is to establish that normal and expected capital that is incremental to capital funded by base rates could, subject to the one limitation, be funded through ICM.

Approximately ten months after issuing the MAADs Policy, the OEB on January 19, 2016 issued its *Handbook to Electricity Distributor and Transmitter Consolidations* (the "MAADs Handbook"). In the MAADs Handbook, to introduce the section on rate-making considerations associated with consolidation applications, the OEB states that "(t)he OEB's policies on rate-

making matters associated with consolidation in the electricity distribution sector are set out in two reports of the OEB. The first report titled "Rate-making Associated with Distributor Consolidation" issued on July 23, 2007 (2007 Report) was supplemented by the 2015 Report, issued (on March 26, 2015) under the same name".[37] It is significant that the OEB does not point to the ACM Report or any other report (other than the MAADs Policy and the 2007 version of that policy) as providing a basis for its policies on rate-making for consolidated distributors. This further confirms that the OEB's intention at the time was to establish a distinct ICM policy for merged distributors, which permits incremental funding for normal and expected capital projects during rebasing deferral periods. OEB staff and intervenors have chosen to ignore this reality and, as a result, their submissions with respect to the relevant policy framework are flawed.

It is also important to recognize the timing of the aforementioned policy developments relative to Alectra Utilities' consolidation transaction. The MAADs Policy was issued in March 2015 and the MAADs Handbook was issued in January 2016. The Alectra MAADs application was filed in April 2016, based on a transaction that was negotiated over a period of greater than 12 months. Consistent with this timeline, and as explained in response to G-Staff 11(d), the OEB's policy amendments set out in the MAADs Policy played a significant and direct role in inducing the municipal shareholders of the predecessor utilities to compete the transaction.

E. THE M-FACTOR PROPOSAL

The M-factor proposal is a request for an alternative mechanism to the ICM for funding Alectra Utilities' incremental capital needs. The requested funding would enable execution of specific M-factor projects that have been identified in the company's consolidated DSP as being necessary investments that are in the interests of its customers, but for which there is not sufficient capital funding in the company's base distribution rates to enable execution during the DSP planning period. The M-factor proposal is described in greater detail in Alectra Utilities' Argument-in-Chief.[38]

In the sections below, Alectra Utilities addresses the submissions of OEB staff and intervenors with respect to the broad issues of whether the M-factor is consistent with MAADs policy and

[37] MAADs Handbook, p. 10.

[38] Argument-in-Chief, pp. 20-34.

IRM, whether it is effectively a proposal for Custom IR, whether it produces a fair result and whether it creates an unwelcome precedent, as some intervenors assert. Other specific M-factor issues are also addressed, including with respect to the proposed inflation factor and the materiality threshold calculation.

1. The M-factor is consistent with MAADs Policy

Several parties argue that the M-factor is not consistent and is fundamentally at odds with the OEB's MAADs policies. For example, OEB staff states that the M-factor "is diametrically opposed to the intent of the deferred rebasing period . . ."[39] and "contrary to the intent of the underlying incentive rate-setting regime and the OEB's MAADs Handbook",[40] and Energy Probe argues that the proposed M-factor "is contrary to the OEB's filing requirements and its MAADs policy".[41] Those arguments are flawed and not supported by the evidence with respect to the OEB's MAADs policy or the nature of the M-factor proposal. As discussed below, the M-factor is entirely consistent with the underlying purpose of the MAADs policy. It has been designed to include a number of the key elements from the OEB's approach to ICM, but with several specific and reasonable modifications that are necessary to address the specific needs and circumstances of Alectra Utilities in furtherance of the underlying policy objectives.

The OEB's MAADs policies are embodied in the MAADs Policy and the MAADs Handbook. The MAADs Policy amends and restates the OEB's rate-making policy associated with electricity distributor consolidation, particularly:

- **Deferred Rebasing to Reduce Consolidation Risk.** To encourage consolidations, the OEB provides consolidating distributors with an opportunity to offset transaction and integration costs with any achieved savings over a rebasing deferral period of up to 10 years from the closing of the transaction. This enables consolidating distributors to reduce their consolidation risk by providing sufficient time to find and implement operational efficiencies and synergies relative to their transition and transaction costs prior to rebasing.

- **Customer Protections to Balance Incentives Given to Distributors.** For a rebasing deferral period of greater than 5 years, consolidating distributors must implement an Earning Sharing Mechanism ("ESM") for years 6-10 to protect customers and ensure that they share in any increased benefits from consolidation during the deferral period. Under

[39] OEB staff Submission, p. 7.

[40] OEB staff Submission, p. 9.

[41] Energy Probe Submission, p. 2. See also BOMA Submission, p. 5.

the ESM, excess earnings are shared on a 50:50 basis for all earnings that are more than 300 bps above the consolidated entity's annual ROE.

- **Rate Setting During Deferred Rebasing Period.** Consolidating distributors may be on any of the rate-setting mechanisms identified in the RRF. When a distributor on Price Cap IR or Custom IR has their plan expire during the rebasing deferral period, their rates will be based on the Price Cap IR mechanism for the balance of the period.

- **Incremental Capital Investments to Reduce Capital Risk During Deferred Rebasing Period.** Capital risk was mitigated by providing for the ability to seek incremental capital funding, thereby permitting the consolidated distributor to retain its synergy savings over the deferral period (subject to the customer protections noted above).

The MAADs structure and approach to rate-setting for consolidating distributors has been designed to mitigate consolidation risk through the availability of an extended rebasing deferral period, and capital risk through the ability to seek incremental capital funding during the rebasing deferral period. The underlying objective of these policies is to encourage distributor consolidation by preserving the ability for consolidating distributors to retain the synergy savings they achieve. The M-factor does not deviate from these policy objectives and mechanisms. Rather, the M-factor has been designed to facilitate the policy basis for consolidation and to align with the OEB's MAADs policies, and to be consistent with expectations at the time the municipal shareholders of the predecessor utilities agreed to proceed with the merger. That expectation was that the achieved synergy savings would be for the benefit of the utility during the rebasing deferral period.[42] Like the MAADs Policy, the M-factor mitigates the consolidation risk and capital risk while incentivizing synergy savings and balancing the benefits between rate payers and the utility through the ESM. This is consistent with the objectives of the OEB's rate setting policy for consolidating distributors which aims to avoid the need for early rebasing by providing the ability to fund incremental normal and expected capital. If Alectra Utilities was required to rebase early to fund capital, this would demonstrate a failure of the OEB's policy framework and/or its application.

[42] See response to G-Staff-11.

2. The M-factor is consistent with IRM

Under IRM, incremental capital is funded through ICM. Although Alectra Utilities has proposed a different incremental capital funding approach, the differences between ICM and the M-factor are not as stark as OEB staff and intervenors portray them to be, nor are the consequences of adopting the M-factor as dire from a regulatory policy and fairness perspective as they assert.

OEB staff and intervenors state that the M-factor is merely a "top-up" of capital and that the incentive for efficiency inherent in IRM is lost.[43] This is not correct. To understand Alectra Utilities' position in this regard it is important to step back from the alarmist statements made by parties about the "attack on IRM" and instead look at the mechanism that Alectra Utilities is proposing since there are good regulatory rationale underpinning the M-factor as a means to fund its incremental capital needs.

As has been noted, Alectra Utilities was required to develop a five-year DSP for the period 2020-2024. It did so using industry leading asset management and planning practices, resulting in the DSP being filed in accordance with the OEB's filing requirements. Like all DSPs, as required by the OEB's filing requirements and consistent with the OEB's adjudication of DSPs in other proceedings, the DSP is a full five-year plan for Alectra Utilities' system as a whole and addresses its system needs over that five-year period. Although this may appear obvious, it is fundamentally important in this proceeding to understand Alectra Utilities' motivation in proposing the M-factor, since what matters most is the implementation of the plan that is consistent with customer needs and which is for the benefit of Alectra Utilities' customers. Under the OEB's regulatory framework, there is no such thing as a DSP that is developed for incremental capital only or that fits nicely into the ICM. It is not five yearly system plans that may be more conducive to ICM or ACM, nor is a DSP developed to fit only under base rates. The funding source does not drive the plan. Rather, system priorities and needs are derived from customer engagement and sound asset management and investment planning processes. That is what drives the plan. Otherwise, system needs would not be appropriately addressed.

[43] OEB staff Submission, p. 7; VECC Submission, para 26; CCC Submission, p. 13.

Employing these processes and accounting for customer engagement, the DSP results in a capital expenditure level that exceeds the amount of capital recoverable in base rates. Having developed a plan that addresses system needs for the benefit of customers and that is consistent with customer preferences, Alectra Utilities was left with the question of how the plan would be funded so that the plan could be executed. In approving the DSP, the OEB will be left with the same question. The OEB must answer that question in the context where base rates established through the ICM are not sufficient to fund the DSP.[44] As noted above, Alectra Utilities' shareholders should not be required or expected to fund the DSP in the absence of rate relief since that would mean that they would be deprived of the opportunity to earn a fair return and, thereby, the utility's rates would not be just and reasonable. Moreover, a requirement for Alectra Utilities to use its synergy savings to fund its incremental capital needs would also be inconsistent with and not justifiable under the MAADs policy framework. The needs of the system have driven the DSP and in turn have driven the need for funding to undertake the plan since the OEB should not approve a DSP that is not executable, and one without the necessary rate funding is not executable.

In developing the M-factor, Alectra Utilities adopted many of the features of ICM[45] and maintained consistency with the IRM so as to not diminish the regulatory basis for the IRM. Contrary to the suggestions from Energy Probe and BOMA that Alectra Utilities is using a "cafeteria approach" to regulation or "cherry picking" those aspects of the OEB's policy framework that are most favourable to its shareholders, Alectra Utilities' intention was to design the M-factor to establish an incremental capital funding mechanism that works for Alectra Utilities and its DSP but that remains consistent with and that works within the MAADs policy. For this reason, the proposed mechanism maintains the rebasing deferral period and the funding of base rates through Price Cap IR, as well as the ICM materiality threshold calculation. However, recognizing the need to implement the DSP over 5 years as an integrated plan, and the need for flexibility to implement the plan efficiently while adjusting to changing circumstances, the M-factor provides capital funding on an envelope basis. The M-factor is not the same as the ICM/ACM. Therefore, it naturally does not include all of the elements of ICM/ACM as Energy Probe and BOMA suggest it should. Where the M-factor deviates from the ICM/ACM, the deviations are needed to facilitate

[44] Argument-in-Chief, p. 8.

[45] Exhibit 2, Tab 1, Schedule 3, p. 7; Exhibit KP1.1, Alectra Utilities Presentation on the M-factor, slide 28.

implementation of the DSP for the benefit of customers. Despite this, the deviations remain consistent with the IRM.

Moreover, given that the ICM/ACM are constituents of the IRM, to the extent the M-factor is consistent with these constituents, it is also consistent with the IRM. At the core of the M-factor is the adoption of the ICM threshold calculation in its entirety.[46] This includes the 10% dead band. The OEB considers that the 10% dead band is an appropriate means to allow for appropriate funding for qualifying ACM/ICM projects.[47] Based on Alectra Utilities' threshold calculation, the dead band represents $62.6M. This is an aspect that neither OEB staff nor any intervenor has referred to or discussed. Instead, they have mischaracterized the M-factor as a "capital top-up" or by arguing that Alectra Utilities has designed the M-factor only to fund all of its capital. Clearly the dead band amount of $62.6M is an amount that Alectra Utilities bears the risk of executing and funding. As such, Alectra Utilities has an incentive to act efficiently in the execution of its capital work to mitigate this risk. Contrary to the assertions of OEB staff and intervenors, the incentive to seek efficiencies remains in the combined context of the M-factor and IRM.

It is also important to note that the M-factor is intended to fund capital and not OM&A during the IRM period. All elements of efficiency typically associated with the IRM and OM&A in rates remain intact during the IRM term, notwithstanding implementation of the M-factor. Again, the M-factor is consistent with IRM.

As noted in the Part F discussion regarding the requested variance accounts, below, it is Alectra Utilities' intention to record, in the CIVA, the capital related revenue requirement 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 five-year DSP period. As noted, this capital, that will be tracked in the CIVA, is not new in the sense that it has always formed part of the DSP. The fact that it will be recorded and subject to future prudence review also requires Alectra Utilities to execute within the amount stipulated and to be efficient in the

[46] Exhibit 2, Tab 1, Schedule 3, pp. 11-14.

[47] OEB, *Report of the OEB: New Policy Options for the Funding of Capital Investments: Supplemental Report* (EB-2014-0219), January 22, 2016, p. 17.

execution of that part of the plan. This provides greater transparency and is also consistent with IRM.

The M-factor proposal is also consistent with the means test as it is applied in the ICM. According to the ACM Report, if the regulated return exceeds 300 basis points above the deemed return on equity embedded in the distributor's rates, no funding for any incremental capital project will be allowed.[48] Alectra Utilities passes the means test. However, notwithstanding that the means test is applied and is acceptable for ICM, OEB staff and some intervenors believe that the means test is not sufficient and that a financial hardship test should be applied to Alectra Utilities in respect of the M-factor.[49] Given that much of the M-factor is based on the ICM, it is unfair for OEB staff and intervenors to seek to impose a higher burden on the Applicant for obtaining incremental capital. There is no 'financial hardship' test in the MAADs Policy, and OEB staff and intervenors provide no reasonable basis for applying such a test for incremental funding eligibility, or why the severity of the test is more appropriate, with respect to Alectra Utilities.

While the M-factor deviates from the ICM in two respects – flexibility and the project-specific threshold, even with these deviations the M-factor remains consistent with the IRM.

The ICM is an incremental capital funding mechanism that applies in the particular year that is the subject of a Price Cap IR application. The ACM reflects a forecast at the time of rebasing for a particular project to come into service in a particular year in the planning period of a DSP that is the subject of the rebasing proceeding and assuming the project reflects costs that exceed the materiality threshold. The funding approval is not granted until a subsequent IR application where costs and in-service are justified, together with continuing need. Partly, this is consistent with the M-factor to the extent that the same materiality threshold is used. However, Alectra Utilities has proposed one distinct aspect which is important to the implementation of its DSP. The DSP sets out the projects to be completed and the pacing of that work. The DSP, like any plan, is proposed on the basis that operational circumstances arise and that there is a need for flexibility to accelerate or defer work depending on system priorities and resources. Consistent with the need to execute the DSP over the five-year period, the M-factor reflects an envelope approach to funding the

[48] ACM Report, p. 15.

[49] See OEB staff Submission, p. 13; BOMA Submission, para 37-39; VECC Submission, p. 20.

incremental capital for its M-factor projects with a true-up for timing and cost recorded in the CIVA.[50] There is a parallel to the ACM to the extent that, if there is a delay in the in-service year for a project, a utility that has received ACM approval is required to promptly identify in which IR application it intends to seek to commence funding.[51] Upon rebasing, per the ICM/ACM policy, the actual costs and the recoveries would be reviewed for any material discrepancies.

It is important to note that the foregoing flexibility of the ACM is limited. First, it only relates to delays in projects. However, that does not address circumstances where projects are accelerated because of system priorities and customer needs. The opportunity to make a future IR application and recover funding would be lost since the project would already be in service because of the need to accommodate and respond to those circumstances that brought about the acceleration. The utility should not be put in the circumstance of not responding to priority changes – particularly where the changes are in the interests of customers – by being restricted to the ACM and because the ACM does not provide sufficient flexibility.

Also, the policy requires a distributor to make an application to commence ACM funding in the IR application related to the year the project goes into service or to deal with project delays. In a DSP of the complexity of Alectra Utilities' DSP, this contributes to regulatory inefficiency. Alectra Utilities' proposal accommodates the flexibility to deal with both acceleration and delays in projects, all within a five-year envelope, and also permits any review of cost and timing changes through the CIVA. In effect, the intent of the ACM is retained, but the application is improved for the benefit of customers in a regulatorily efficient manner.

Furthermore, the added flexibility of the M-factor does not mean the utility deviates from the plan's ultimate intended outcomes. This is consistent with the outcomes-based approach of the RFE. The envelope approach does not diminish the policy basis of the IRM and is consistent with its parameters.

The other deviation relates to the project specific threshold as identified in the Toronto Hydro decision and as applied by the OEB in the 2018 and 2019 Alectra Utilities ICM applications. The

[50] Exhibit 2 Tab 1 Schedule 3, p. 2; Exhibit 2 Tab 1 Schedule 4, pp. 1-2; MANA-41, G-Staff-9. G-Staff-8, Attachment 1 provides calculations of each rider based on the projects for the specific year of the DSP.

[51] ACM report, p.13.

project specific threshold applied in the circumstance as contemplated in the ICM/ACM policy would mean that an unfunded project that did not meet the threshold would not be considered until rebasing, which could at most be three years from the time the costs are incurred during the IRM period.[52] For a deferred rebasing utility like Alectra Utilities, this would mean up to eight years from the time costs are incurred before rebasing. These costs are not one-time costs. For the 2018 and 2019 ICM period, the unfunded projects not fitting within the project specific materiality threshold amounted to $32.8million.[53] This would be substantially more over the DSP and remaining rebasing deferral period. Although projects may not meet the project specific threshold, all projects under the DSP have been assessed on need and given a project risk score, and the investments have been optimized and prioritized based on a range of variables, including customer feedback. This means that all DSP projects are reasonable and prudent and should be implemented as part of the plan, regardless of their individual size.[54] Recognizing that these projects are beneficial, the M-factor has considered materiality relative to the implementation of the plan as whole, which remains consistent with the IRM framework and the outcomes based RFE.

For the reasons set out above, the M-factor is consistent with the IRM. The M-factor adopts many of the features of ICM and maintains consistency with the IRM and its regulatory basis. Where the M-factor deviates from the ICM, those deviations are needed to enhance implementation of the DSP and are not inconsistent with the IRM. Moreover, given that the ICM/ACM are constituents of the IRM, to the extent the M-factor is consistent with these constituents, it is also consistent with the IRM. The OEB should therefore reject the alarmist submissions made by parties who claim the M-factor is an "attack on IRM". The mechanism that Alectra Utilities is proposing has sound regulatory rationale and is a reasonable and fair means to fund its incremental capital needs during the rebasing deferral period.

[52] Assuming the costs are incurred in year 2.

[53] Alectra Presentation Day Slides, KP1.1, p. 7, "As Filed" versus "Approved" figures.

[54] See G-Staff-9; Oral Hearing Transcripts, Vol. 1, pp. 117-118 and Vol. 2, p. 97.

3. The M-factor is not a CIR

Notwithstanding that there is not a material deviation from ICM/ACM, OEB staff and intervenors assert that the M-factor is tantamount to a custom incentive rate ("CIR").[55] This proposition should be rejected. As described above, the M-factor is not a capital top-up mechanism since the 10% dead band applies and there are minimal differences between the two incremental funding mechanisms of M-factor and ICM/ACM other than the greater flexibility and the project specific threshold. How can something modelled on ICM/ACM also be comparable to a CIR? Furthermore, a CIR would contemplate a rebasing of rates in year 1 such that the base rates applicable throughout the DSP period would reflect depreciation of an up-to-date rate base. The M-factor does not. A rebasing for the Alectra Utilities rate zones has not happened for some time and the base rates reflect a rate base determined years before the merger in 2017.[56]

4. The M-factor produces a fair result

Contrary to the assertions of intervenors and OEB staff, the M-factor does not create unfairness or require a deviation from the established MAADs structure if the M-factor is accepted. Parties claim the M-factor as proposed is unfair because Alectra Utilities retains its synergy savings and recovers incremental capital funding from ratepayers through the DSP period.

Intervenors and OEB staff submit that the M-factor de-risks the rebasing deferral in a manner not contemplated in the MAADs policy and since it is not consistent with MAADs policy then there should be a reallocation of risk so that the synergy savings are shared with ratepayers to fund capital.[57] Intervenors also submit that the ESM should be altered.[58]

The intervenor and OEB staff submissions in this regard should be rejected. There is no realignment of risk from what was contemplated in the MAADs policy to what would ultimately occur under the M-factor. For instance, as noted above, the M-factor is consistent with MAADs policy. There is risk arising due to the use of the 10% dead band. There is additional risk in

[55] OEB staff Submission, p. 8; AMPCO Submission, p. 4; CCC Submission, p. 14; VECC Submission, p. 10; BOMA Submission, para 6.

[56] Except for the PowerStream Rate Zone, which was rebased in 2017.

[57] OEB staff Submission, p. 6; SEC Submission, paras 4.1.1-4.1.4; Energy Probe Submission, p. 4; BOMA Submission, para.52.

[58] OEB staff Submission, p. 50; Energy Probe Submission, p. 6; CCC Submission, pp. 4-5.

relation to the DSP projects that are not M-factor Projects, which Alectra Utilities seeks to implement and record in the CIVA for future prudence review and disposition. Furthermore, the risk mitigated through the rebasing deferral period is consolidation risk associated with the derivation of synergy savings upon consolidation to offset transaction and transition costs. The M-factor addresses capital risk but does not provide any supplementary risk mitigation relative to the rebasing deferral period. Alectra Utilities remains exposed to the same consolidation risk as was originally mitigated by the rebasing deferral period. Requiring use of the savings to fund capital would be equivalent to requiring early rebasing and does not recognize that net synergy savings can change over the balance of the rebasing deferral period. Moreover, the use of savings to fund capital would mean that the consolidation risk has been reduced and that the rebasing deferral period is no longer required. This is not the case. It is also contrary to the MAADs regulatory regime whereby the savings are retained to mitigate consolidation risk and incremental capital needs are funded to avoid the use of the savings to fund capital.

Furthermore, because the proposed M-factor is consistent with both the MAADs policy and IRM, there is also no basis to use synergy savings or to alter the ESM as part of funding the incremental capital. The benefits of both regulatory frameworks remain intact.

5. The M-factor does not create a precedent

BOMA and Energy Probe raise concerns about the precedential impacts that would result from the OEB approving the proposed M-factor. While Energy Probe raises its concern without any supporting explanation,[59] BOMA argues that if the M-factor is approved "every other merged utility in the future will file what is, in effect, a custom IR seeking to fund the entirety of the capital budget established by the distribution plan, without having to rebase and forego the substantial cash flow it was awarded over the rebasing deferral period granted to it in the merger".[60] For the reasons discussed below, the concerns raised by these intervenors are not supported by the record and are without merit. Approval of the M-factor for Alectra Utilities will not trigger a stampede of applications from merged utilities in the future as BOMA would have the OEB believe.

[59] Energy Probe Submission, pp. 5, 9.

[60] BOMA Submission, p. 20.

First, for the reasons set out earlier in this Part E, Alectra Utilities disagrees with BOMA's characterization of the M-factor proposal, including in particular the reference to it being equivalent to a custom IR.

Second, in response to SEC-50, Alectra Utilities clarified that it is not proposing that the OEB's MAADs Policy be amended to add the M-factor, which is being proposed specifically for Alectra Utilities in the particular circumstances described in the Application. Moreover, Alectra Utilities noted that this was recognized by the OEB when, in denying Enbridge's request for intervenor status, the OEB specified that the purpose of the current proceeding is to establish rates for Alectra Utilities, that the OEB was not establishing a generally applicable framework for incremental capital expenditures and that the proposal would be reviewed only in the context of Alectra Utilities' unique circumstances.

Third, it is well established that while OEB hearing panels may be guided by decisions previously made by other OEB panels, they are not bound by such previous decisions.[61] As such, whether or not a future applicant is permitted to use a mechanism equivalent or similar to the proposed M-factor will always be subject to the discretion of the future OEB panel, which will be required to consider the merits of any such future proposal within the circumstances of that future applicant without being bound by the outcome of the present Application.

Finally, the circumstances of Alectra Utilities in the current proceeding are unique and no intervenor has identified any particular consolidated utilities that have or are experiencing equivalent circumstances. Some of the elements that make the circumstances of Alectra Utilities unique are:

- the utility was initially formed from a merger of four predecessor utilities, and is now comprised of five predecessor utilities, whose rates continue to be set separately for each of its five rate zones;

- as acknowledged by OEB staff at p. 7 of its Submissions, Alectra Utilities was one of the first consolidated utilities to choose (as it was entitled to do) the maximum allowable deferral period after it was extended to ten years;

[61] OEB, Decision and Procedural Order No. 3, Enbridge Gas Distribution and Union Gas Limited (EB-2017-0306/0307), March 1, 2018, p. 8.

- it was required by the OEB to file a consolidated DSP to support any application requesting incremental capital funding for the third or any subsequent year of its ten-year rebasing deferral period;

- as noted on p. 1 of Exhibit 2, Tab 1, Schedule 3, it is the first utility arising from a consolidation of multiple utilities to file a five-year DSP in the midst of its rebasing deferral period rather than at the conclusion of that period; and

- Alectra Utilities was the only distributor consolidation that was concluded and approved in the period between the March 2015 issuance of the MAADs Policy and the April 2018 issuance of the decision in Alectra Utilities' 2018 ICM application, and thereby was the only consolidation made based on an understanding of the OEB's policy as articulated in the MAADs Policy, but without the benefit of seeing how the OEB would ultimately apply that policy.

The OEB should therefore disregard the submissions from intervenors on the precedential impacts that would result from the OEB approving the proposed M-factor.

6. Other M-factor Issues

(a) Inflation Factor

Alectra has proposed a five-year historical average inflation rate for purposes of calculating the materiality threshold. OEB staff disagree with this approach and propose that the ICM materiality threshold for each rate zone be calculated using an inflation rate of 2.0% as set for 2020 by the OEB.[62] Alectra Utilities, however, submits that OEB staff's proposal should not be accepted. Although the argument made by OEB staff is applicable to the ICM, an application for ICM is restricted to a particular rate year. In contrast, the DSP and the related M-factor projects reflect capital investments that are planned to be implemented over the five-year DSP period on an envelope basis. As indicated above, there is a need to have flexibility in the execution of the plan given its multi-year nature. As a result, the use of the five-year average of inflation rates reflects an historical trend that coincides with the term of the DSP and also provides stability in funding over the term of the DSP, thereby recognizing the envelope basis of recovery.[63] Alectra Utilities therefore reiterates its submission that use of a five-year historical average growth rate of 1.66% for purposes of calculating the materiality threshold is appropriate.

[62] OEB staff Submission, p. 23.

[63] Undertaking J3.1, Attachment 2.

(b) Materiality Threshold Calculation

BOMA asserts that the calculation of the materiality threshold for purposes of the M-factor proposal should include, as part of rate base, the approved ICM amounts from 2018 and 2019.[64] This is incorrect. Based on the ACM Report, the rate base that is to be used for purposes of applying the materiality threshold formula is the rate base in the distributor's most recent cost of service application.[65]

(c) Approval by the Applicant's Board of Directors

SEC argues, in section 3.5 of its Submission, that Alectra Utilities does not need the full amount of the requested M-factor funding to implement a prudent capital plan because its Board of Directors ("BOD") did not approve capital expenditures at the level requested in the Application.[66] Rather, based on SEC's calculations, the BOD approved significantly less. SEC has calculated a theoretical 2020-2024 BOD approved capital plan of $1,274.4million. This calculation contains a material error of $15.9M. In footnote 38 at p. 24 of SEC's Submission, it states the basis for its calculation, as follows:

> K2.5, p. 69. The total core capital for 2019 to 2023 is $1,383.3 million, less the reduction for the "ICM Recovery Assumption" of $137.1 million, netting $1,246.2. To adjust this to 2020-2024, we removed the $253 million from 2019, and added in the $309.4 from 2024 G-Staff-4(c), and then deducted the 50% ICM recovery assumption, $28.2 million, the same as the previous years. Nothing turns on this number. Whatever way it is calculated, it is clear that the Board of Directors has approved a capital plan that is somewhere around $150-175 million lower than what Alectra is telling the Board it needs.

When SEC "removed $253 million from 2019", it failed to also remove $15.9M[67] of ICM reductions from 2019, embedded in the ICM Recovery Assumption of $137.1. SEC effectively has five years of capital expense, paired with six years of ICM reductions, resulting in an understated theoretical BOD approved 2020-2024 budget. Correcting for SECs error, the correct number would have been $1,290.3million. In addition, SEC's reference to G-Staff-4(c) is not correct.

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[64] BOMA Submission, p. 17.

[65] ACM Report, p. 20.

[66] SEC Submission, pp. 24-27.

[67] Exhibit K2.5, p. 69

The OEB should reject SEC's suggestion that the level of capital expenditures approved by the BOD is a good indicator of the amount of M-factor funding that the company requires to execute its DSP. As was explained by Alectra Utilities' Chief Financial Officer during the Oral Hearing, the budget that was approved by the BOD was a one-year budget based on a snapshot at a point in time that gets approved, that the company moves forward with, and which is subject to changing needs and circumstances that are regularly communicated with the BOD, and which is not necessarily the only capital that gets approved within the scope of any 12-month or five-year period.[68] Moreover, when the BOD approves a budget it does so not only as a matter of imposing financial controls, but also as a matter of setting expectations.[69] In this context, and given the Applicant's history before the OEB in seeking incremental capital funding, it was prudent and appropriate for the BOD to approve a budget that contemplated receiving less than the total M-factor request pending the outcome of this proceeding, but that in no way should be taken as an indication of what the BOD considers its investment needs to be.

(d) Spending the Merger Benefits

SEC argues, in section 4 of its Submission, that one of the reasons the OEB should reject the M-factor proposal is because Alectra Utilities' customers will not see any merger benefits at the time the company rebases. SEC supports its argument by asserting that Alectra Utilities is spending the capital merger synergies directly by higher than normal capital spending levels - instead of capital going down, as SEC believes is necessarily the case if there are synergies, it is going up; and by asserting that Alectra Utilities is creating a higher rate base, which will translate into a higher revenue requirement and therefore higher rates at the time of rebasing. On this basis, SEC argues that to the extent there are operating synergies, they will be offset by a higher rate base to remove any rate benefit for customers. The OEB should reject this argument.

In the MAADs proceeding that resulted in approval of the merger giving rise to Alectra Utilities, there was a clear expectation as to the merged utilities' forecast capital spending needs. As noted in the preamble to G-Staff 11 and discussed in response thereto, the Decision and Order in Alectra Utilities' MAADs approval noted that the applicants estimated that they would need to seek $587.7

[68] Oral Hearing Transcript, Vol. 3, pp. 29-30.

[69] Ibid. at p. 33.

million of incremental capital funding over the course of their rebasing deferral period. Alectra Utilities is doing what it said it would, and the M-factor proposal is part of the company's efforts to implement this capital prudently and efficiently so as to generate savings relative to the scenario where the merger did not occur.

F. VARIANCE ACCOUNTS

1. Capital Investment Variance Account

As described in its Argument-in-Chief,[70] Alectra Utilities is proposing the CIVA for the 2020-2024 period to track (a) the difference between capital funding provided through the M-factor and the actual revenue requirement for M-factor Projects placed into service during this period, and (b) the capital related revenue requirement 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 five-year DSP period. The CIVA is proposed as a symmetrical account and would include rate zone-specific sub-accounts to enable tracking of investments for each rate zone. While Alectra Utilities would record amounts in the CIVA (including the relevant sub-accounts) on an annual basis, it would not seek to dispose of any amounts recorded in the account, for either of the purposes identified above, until the conclusion of the DSP planning period. The CIVA will enable any necessary true-ups at the end of the 2020-2024 period for the M-factor Projects, as well as prudence review for the DSP projects (other than M-factor Projects) that are executed but not funded by base rates. Through the CIVA true-up process, Alectra Utilities will be able to ensure fairness as between its shareholders and its customers, as well as among customers in its various rate zones. Through the prudence review, the OEB will have an opportunity to consider, and parties will have an opportunity to test, whether and to what extent Alectra Utilities should be permitted to recover the costs associated with the corresponding projects.

The submissions from parties on the CIVA are varied. Several parties simply argue that the CIVA should be denied or that it is not needed based on their arguments that the M-factor should be denied (SEC, VECC). Others take the position that if the M-factor proposal is denied, then so too should the CIVA, but if the M-factor is approved then the CIVA should be approved, either as

[70] Argument-in-Chief, p. 30.

proposed or subject to further considerations (OEB staff, AMPCO, Energy Probe). Still others provide comments on certain aspects of the CIVA but have not stated a clear position on whether or not the proposed account should be granted (BOMA, CCC). BOMA and AMPCO argue that the CIVA should not be symmetrical. The further considerations proposed by Energy Probe in respect of the CIVA are unclear. Staff, AMPCO, CCC, SEC and VECC all raise concerns regarding the proposed use of the CIVA to record the costs of non-M-factor investments that are not funded by base rates for future prudence review.

Alectra Utilities acknowledges that, if the M-factor proposal is not approved then it would not be appropriate to establish the CIVA. However, if the M-factor is approved then the CIVA must also be approved as it is an integral component of the overall M-factor proposal. In the event the OEB determines that Alectra Utilities should be granted incremental capital funding relief other than through the M-factor, consideration would need to be given as to whether the CIVA or a similar account would be appropriate to allow for the true-up of amounts to protect customers and the utility. While two of the intervenors argue that the CIVA should not be symmetrical,[71] Alectra Utilities submits that it is appropriate for the account to be symmetrical because it is only symmetrical to the limited extent of the $9.3million in respect of the M-factor Projects. Further, the OEB and parties will have an opportunity to consider the prudence of any such amounts before the utility is permitted such further recovery on the M-factor Projects.

Regarding Alectra Utilities' proposal to record the costs of DSP projects (other than M-factor Projects) in the CIVA, Alectra Utilities submits the following. As explained in Exhibit 2, Tab 1, Schedule 3 at pp. 11-14, the total eligible capital envelope for the M-factor funding was determined using the OEB's ICM materiality threshold, including the 10% dead band, which Alectra Utilities considered to be an appropriate method for calculating the level of capital funding that a utility should be expected to absorb within its funding from base rates outside of a rebasing application. The M-factor Projects initially reflected all of the DSP projects that were not funded by capital in base rates in accordance with the materiality threshold calculation. As a result of corrections made to the billing determinants and an update to the inflation rate calculation (discussed in section

[71] SEC Submission, para 7.2.3; BOMA Submission, para 41.

E(6)(a), above), each arising from the Oral Hearing, Alectra Utilities updated its calculation of the ICM materiality threshold.

As a result of the materiality threshold recalculation, Alectra Utilities determined that its base distribution rates fund less capital than was initially calculated. However, rather than amend its Application late in the proceeding to seek M-factor funding for the larger funding gap that resulted from this recalculation, and recognizing that the final determination as to the appropriate inflation rate to be used as an input to the materiality threshold calculation remains subject to the OEB's consideration, and that the size of the funding gap could therefore change, Alectra Utilities opted to maintain its request for incremental capital funding through the M-factor at the same level ($265 million over five years) and based on the same list of 203 specific M-factor Projects.

In order to address the fact that, based on the updated materiality threshold calculation some of the DSP projects would neither be funded by base rates nor by the M-factor, Alectra Utilities proposed that the OEB fix the materiality threshold for the 2020-2024 period and permit Alectra Utilities to record in the CIVA the capital related revenue requirement arising from such non-M-factor projects. After the five-year DSP period, the utility will apply to the OEB for disposition of those amounts, at which time the full costs of such projects would be subject to prudence review. Alectra Utilities will bear significant risk in executing those projects without the certainty of recovery, and customers would enjoy the benefits of those projects during the DSP plan period without bearing any costs for those investments during that period. While parties argue that they did not have an opportunity to test the evidence on these amounts, this ignores the fact that parties have had an opportunity to test all of the evidence in the DSP, from which these projects are derived. Moreover, parties will have a further opportunity to test these particular projects at such time that disposition of the CIVA is requested.

It is also important to recognize that, if the OEB approves the DSP and the M-factor, including the CIVA insofar as it applies to the M-factor Projects, it must, as a matter of setting rates in accordance with the just and reasonable standard, also approve the use of the CIVA for the purpose of recording DSP projects that are not M-factor Projects. Otherwise, the OEB would be creating an expectation that the DSP would be fully executed but without providing Alectra Utilities with any opportunity to earn a fair return on the capital it invests in those DSP projects that are not

funded by base rates and which are not M-factor Projects. At most, Alectra Utilities would be able to seek to add those investments to its rate base on a prospective basis from the time it next rebases, but it would have no opportunity to recover its cost of capital inclusive of a fair return for the balance of the rebasing deferral period.

For these reasons, Alectra Utilities submits that its proposal to establish the CIVA to track both the difference between capital funding provided through the M-factor and the actual revenue requirement for M-factor Projects placed into service during this period, as well as the capital related revenue requirement 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 five-year DSP period, is reasonable and appropriate and should be approved by the OEB.

2. Externally Driven Capital Variance Account

As set out in Alectra Utilities' Argument-in-Chief,[72] the EDCVA would be used to record differences between the revenue requirement associated with externally driven capital expenditures in rates, as forecasted in Section 5.4.3, Appendix 3 of the DSP, and the actual revenue requirement for in-service additions associated with such projects in the same period.

OEB staff and AMPCO take the position that if the M-factor proposal is denied, then so too should the EDCVA, but if the M-factor is approved then the EDCVA should be approved in the form proposed. CCC argues the opposite, that if the M-factor proposal is denied, that the OEB should allow the EDCVA for a one-year period and, if Alectra Utilities applies for ICM or rebasing in 2021 then the OEB should reconsider the need for the account at that time. SEC and VECC argue that the EDVCA is appropriate, but only subject to certain conditions. SEC argues that the EDVCA should not be approved if the M-factor is approved, but if the M-factor is denied then the EDCVA should only be approved if the baseline budget of projects included in base rates is clear (which in SEC's view it is not). SEC therefore suggests that Alectra Utilities should propose the account again in 2021. VECC argues that the account should only capture projects that attract capital contributions under the *Public Service Works and Highways Act*, but that all such projects

[72] Argument-in-Chief, p. 34.

should be removed from any incremental capital funding relief under the M-factor or ICM, and the utility would then need to file for after the fact revenue requirement adjustments upon completion of the projects. Others provide comments on certain aspects of the EDCVA but have not stated a clear position on whether or not the proposed account should be granted (BOMA, Energy Probe). BOMA argues that the provisions for clearance of this account should be identical and mandatory regardless of the balance is in a credit or debit position at rebasing. Energy Probe comments that this account would remove the incentive to deliver projects below cost and to negotiate cost sharing agreements with transit and road authorities to provide ratepayer savings.

Alectra Utilities has considered the submissions from the parties and has decided to no longer seek this account. Instead, Alectra Utilities will manage the uncertainty associated with its externally driven capital expenditures. Withdrawing this request also eliminates the regulatory burden associated with the account.

G. DISTRIBUTION SYSTEM PLAN

Alectra Utilities' consolidated five-year DSP establishes the company's capital investment needs, including those aspects that require funding by means of the proposed M-factor. The DSP was developed based on a robust customer engagement process, comprehensive assessment of reliability needs and a disciplined approach to investment planning. Execution of the capital investments contemplated by the plan will address reliability, safety, service and other objectives for the benefit of Alectra Utilities' customers. Accordingly, the DSP provides a sound basis for the M-factor proposal. In the sections below, Alectra Utilities addresses the submissions of parties with respect to (i) customer engagement, (ii) reliability, (iii) specific areas of investment, (iv) OM&A savings and (v) other DSP-related issues.

1. Customer Engagement

(a) Overview

Parties have adopted a range of positions on the multi-stage customer engagement process that Alectra Utilities undertook in developing the DSP. OEB staff are generally supportive of the customer engagement process, stating that "Alectra Utilities has conducted an appropriate level of

customer engagement."[73] At the same time, OEB staff expresses concerns with three relatively narrow customer engagement-related issues.

In contrast with OEB staff, most of the other parties are less supportive of the overall customer engagement process – notwithstanding that it is the largest public consultation ever conducted in the Ontario electricity sector.[74] The parties' criticisms generally fall into three categories:

i) The customer engagement materials were unclear, misleading, or otherwise failed to present factual information appropriately;
ii) The methodology employed by Innovative Research Group ("Innovative") was deficient or "suggestive"; and
iii) Innovative's evidence does not meet the required standard.

Alectra Utilities responds to each of these areas of concern, as well as to OEB staff's submissions, below.

First, as a general response to the parties' submissions, Alectra Utilities observes that, while there is no defined standard for electricity industry customer engagement, the process that Alectra Utilities undertook to prepare the company's 2020-2024 DSP, with assistance from Innovative, is by any measure one of the most extensive, methodologically advanced processes ever conducted in Ontario. Alectra Utilities invested in this extensive customer engagement process both to enhance the quality of the DSP and to demonstrate the company's commitment to genuinely identifying and incorporating customer views into its business planning process.

The sophistication of Alectra Utilities' customer engagement is evident, not only in the sheer number of participating customers (over 32,000), but also in the advanced methodologies employed:

- Unlike most prior DSPs, Alectra Utilities engaged with its customers both at the initial stage and at the latter stage of its capital planning process.

[73] OEB Staff Submission, p. 51.

[74] Exhibit 4, Tab 1, Schedule 1, DSP, Appendix C, Customer Engagement Overview; See also Oral Hearing Transcript, Vol. 2, p. 98.

- Innovative conducted a thorough sample validation analysis and a reference telephone survey to ensure the online sample was representative of the broader customer base.[75]

- This customer engagement included "some of the most complex content Innovative has covered in a consultation," leading Innovative to employ a new online workbook format to allow customers to engage with the content ways that would not be possible in a telesurvey.[76] For example, customers were able to reconsider their specific decisions on business choices in light of the total rate impact of their initial choices. Given the complexity and volume of choices presented to customers, it would not have been possible to do this in a telesurvey.[77]

- In addition, this consultation allowed customers to self-identify whether they received overhead or underground service and, if overhead, whether they were on rear-lot service or not. This, in turn, allowed Innovative to explore any differences between those directly impacted by proposed investments and those who did not directly benefit.[78]

Other than OEB staff, the parties' submissions on customer engagement ignore the investments that Alectra Utilities has made in high-quality customer engagement, focusing primarily on relatively minor points, in an apparent attempt to erode the value of this extensive process and undermine the DSP itself. In fact, the customer engagement process undertaken to prepare the DSP meets and, in many respects, exceeds the level of quality of any prior evidence submitted to the OEB. In Alectra Utilities' submission, the OEB should therefore reject these parties' submissions on customer engagement.

(b) Reply to OEB Staff Submissions

Despite generally supporting the customer engagement evidence, OEB staff critiques three aspects of how the utility incorporated the feedback it received from customers. These aspects, which are addressed below, are as follows:

[75] Exhibit 4, Appendix C02, p. 11.
[76] Ibid., p. 8-9.
[77] Ibid.
[78] Ibid., p. 3.

i) How Alectra Utilities incorporated customer feedback in planned Underground Cable Renewal investments;
ii) How the customer engagement materials present reactive spending; and
iii) The absence of customer engagement on the revised funding gap identified in Alectra Utilities' Argument in Chief.

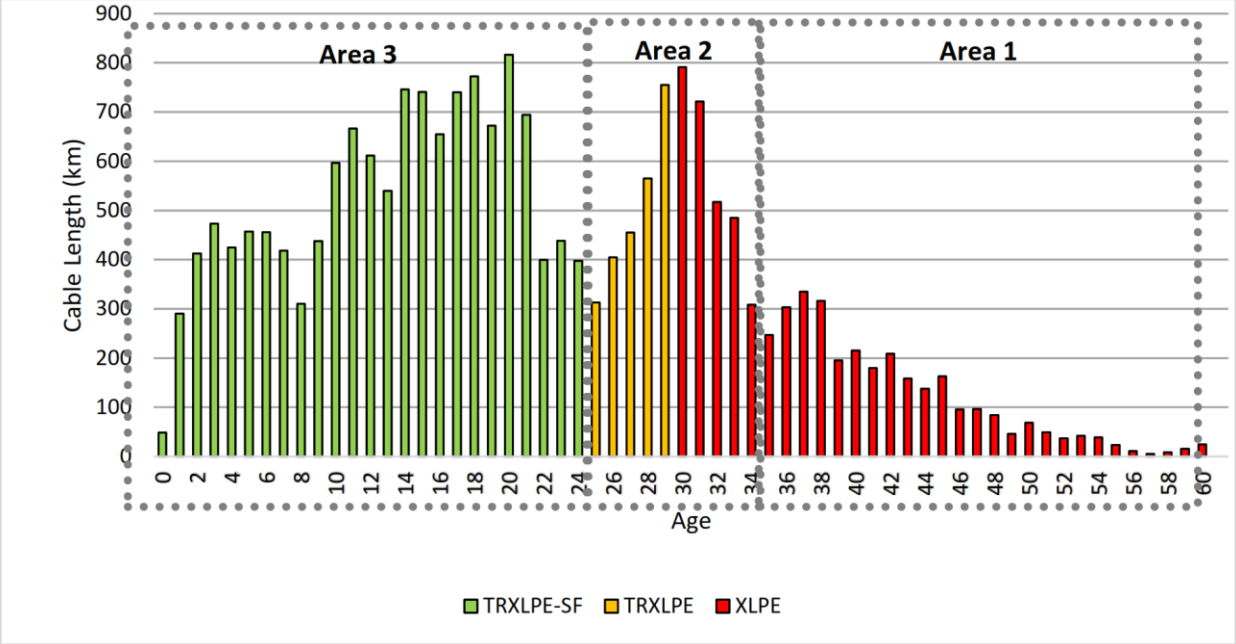
(i) Feedback on Underground Cable Renewal Incorporated Appropriately

OEB staff comments that Alectra Utilities has proposed to invest in the underground distribution system at the "accelerated pace", whereas a majority of customers preferred investing at the "recommended pace."[79] Alectra Utilities does not dispute OEB staff's interpretation of the customer engagement report. However, while customer engagement is a pillar of Alectra Utilities' capital planning, the utility must balance customer feedback with other drivers of the investment program. As OEB staff note in their submissions, customer engagement is only one input into Alectra Utilities' decision-making process.[80] The DSP demonstrates that, without significant investment in system renewal, the rate of replacement and rehabilitation will fall behind the rate of deterioration. This trend is especially pronounced in the underground system, where increases in cable failures are driving a negative trend in reliability.

Alectra Utilities plans to accelerate cable rehabilitation in order to match the pace of deterioration with the pace of renewal. The extensive pre-filed evidence on the underground asset renewal investments demonstrates that this is the appropriate time to intervene.[81]

[79] OEB Staff Submission, p. 51.
[80] Ibid., p. 53.
[81] Exhibit 4, Tab 1, Schedule 1, Appendix A10, p. 14.

Figure 1 – XLPE Cable by Type



As shown in the Figure 1 above, Alectra Utilities has a significant amount of underground cable in Area 2, more so than in Area 1, which will have to be renewed or rehabilitated through cable injection. In the DSP, Alectra Utilities plans to increase the rate of renewal to match the current rate of deterioration and address poor and very poor condition cable before the next wave of underground cable reaches end of life, which gives rise to a risk of rate shock for customers in the future.

In addition to avoiding steeper future rate increases, the 2020-2024 period is the most cost-effective time to increase investment in cable rehabilitation (extending the life of certain deteriorating cable through injection). Critically, the evidence is that cable injection is five times less costly than replacement.[82] Alectra Utilities has a small window to rejuvenate these cables. Just as premature investment would not have been prudent, so too would it not be prudent to squander the time-limited opportunity to rehabilitate eligible cable through cable injection during the DSP period. If Alectra Utilities does not rehabilitate appropriate cables in this period, the only option will be much more costly cable replacement.

[82] G-Staff-24 (c).

Alectra Utilities is aware that even the "accelerated" level of underground asset renewal proposed in the DSP may be insufficient. Vanry & Associates confirmed the urgency of these investments and states, "We are concerned that Alectra may not have allocated sufficient funding required to keep up with the cable failure rates. This leaves Alectra and its customers exposed to risk of entering a vicious cycle…"[83]

For the reasons set out above, the proposed investments in underground cable renewal, including the planned investments in cable rehabilitation, provide the best value to customers both in terms of improved reliability as well as in the mitigation of future cable replacement costs. While Alectra Utilities recognizes that this level of investment exceeds the scenario that the majority of customers identified during customer engagement, it nonetheless is confident from the totality of its analysis and planning process that the most prudent course of action, recognizing the long term consequences of reduced investment, it to invest in underground asset renewal at the level proposed in the DSP.

(ii) OEB Staff has not Reflected Alectra Utilities' Reactive Spending

OEB staff argue that the customer engagement materials inaccurately present Alectra Utilities' reactive capital investments.[84] The customer engagement materials state that Alectra Utilities spend an average of $19million on reactive investments, whereas OEB staff calculate the company's average historic capital spending to be $16.9million over the 2015-2019 period.

Alectra Utilities' presentation of its reactive capital spending is accurate. The five-year average that OEB staff uses does not reflect actual historical spending on reactive capital work. Alectra Utilities has used a more recent two-year average, which accurately reflects spending on reactive replacement since Alectra Utilities merged in 2017, from which point the predecessor utilities started to assign costs in a consistent manner.

The two-year average is more accurate for two reasons: incomparability of pre-merger spending data with current budgets and post-merger actuals, and more recent increases in failures and reactive spending needs.

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[83] Exhibit 4, Appendix G, p. 5.

[84] OEB Staff Submission, pp. 39-40.

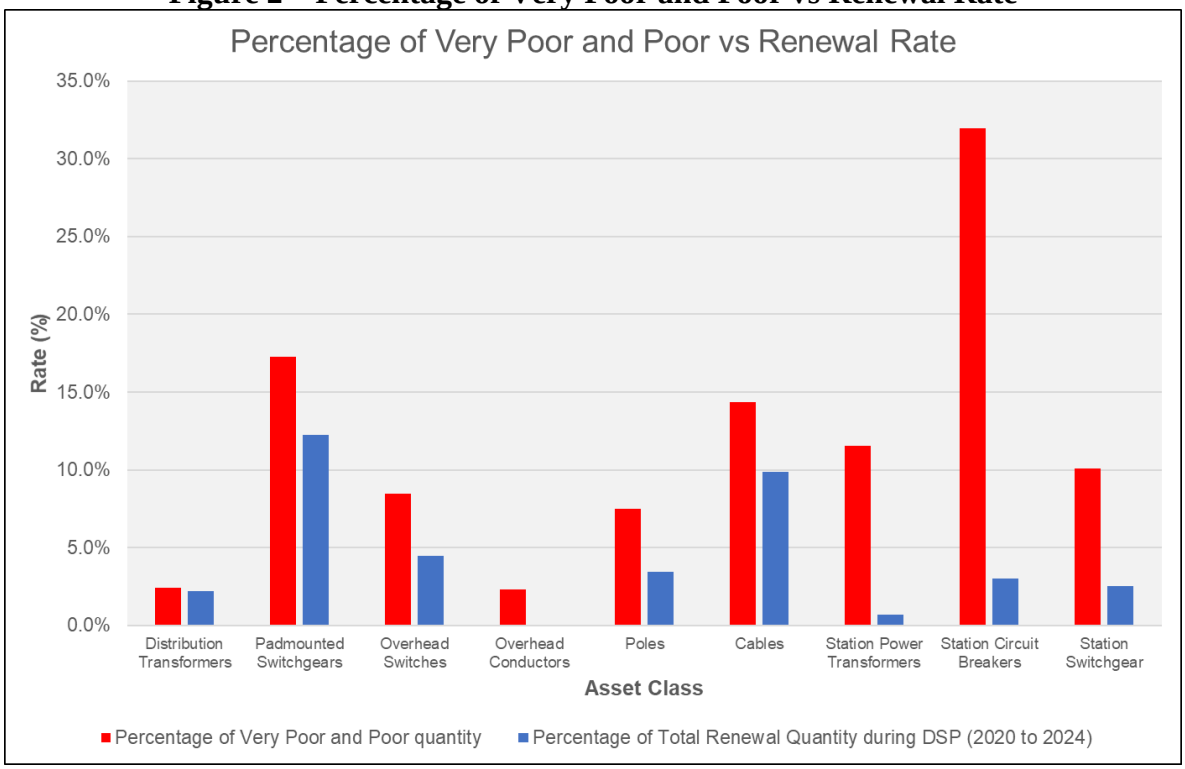
Data for the historical period before Alectra Utilities' formation cannot be directly compared with spending in 2017 and after – in effect, OEB staff's calculation is based on "apples-to-oranges" data. As noted in the DSP[85] Alectra Utilities identified that expenditures for the 2015 and 2016 historical years is based on the capital plans of the individual predecessor utilities, which approached capital spending and mapping of those expenditures in a manner specific to their individual needs and practices. Although Alectra Utilities attempted to categorize the investment, it was not possible to accurately map all expenditures correctly, especially on the reactive spending, as the predecessor utilities had varying practices in accounting costs for reactive failures.

In addition, Alectra Utilities' has forecast that future years will require increased reactive capital spending, not less. This is despite the proposed investment in System Renewal. The overall trend has been toward increasing need for reactive investments in Alectra Utilities' distribution system primarily due to the increasing proportion of its assets that are in poor or very poor condition, as well as the increase in both the frequency and intensity of extreme weather events. Even at the level of investment proposed in the DSP, the asset replacement rate does not match the rate of degradation rate as illustrated in the Figure 2 below.[86]

[85] Exhibit 4, Tab 1, Schedule 1, Appendix A06, p. 10.

[86] The data in this chart is drawn entirely from AMPCO-60, Attach. 1.

Figure 2 – Percentage of Very Poor and Poor vs Renewal Rate



For these reasons, the reactive capital budget is appropriate as filed and should not be reduced as OEB staff propose.

(iii) Customer Engagement Materials Used the Best Available Information

OEB staff notes that the customer engagement materials were based on the eligible capital funding materiality threshold as reflected in Alectra Utilities' pre-filed evidence, and not on the revised materiality threshold as proposed in the company's Argument in Chief.[87] Based on the revised materiality threshold, OEB staff argue that the OEB should give less weight to the customer engagement results and deny the proposed revision to the CIVA, since customers may have answered differently if they had been aware that the company could potentially recover additional capital costs in a subsequent proceeding due to the revised materiality threshold.[88]

[87] OEB Staff Submission, p. 52.

[88] Ibid., p. 53.

As set out in the Argument in Chief, the revised materiality threshold is based on corrections to the billing determinants used in the formula, along with an updated inflation rate. Alectra was unaware of these changes at the time of the customer engagement and, with respect to the inflationary update, could not have predicted the updated inflationary rate. Indeed, various changes occur throughout the many months that pass between filing an application with the OEB and the regulator's ultimate ruling.

In Alectra Utilities' submission, the fact that the capital funding threshold has changed between the filing of the application and the filing of arguments does not invalidate the results of the customer engagement research. Such changes occur for many reasons, some of which are entirely exogenous to the utility and indeed to the OEB, such as updated inflationary data. In other cases, regulatory calculations may change because of policy positions advanced by parties or the OEB. And, in some instances, like the corrected billing determinants in this case, errors may be identified during a proceeding.

Alectra Utilities has not proposed to increase the amount of funding the company would receive over the term of the DSP. While the company may be eligible to true-up for actual capital spending through the CIVA, any recovery of balances in that account (or refund to customers) will be the subject of a future OEB proceeding and decision. Moreover, there is no evidentiary basis on which to conclude that customers' preferences on the capital work during the DSP period would change because of the potential for future recoveries from the CIVA. Alectra Utilities also reiterates the point made above, that customer feedback is only one of the inputs used in preparing the DSP so even if the updated capital funding threshold might have affected customer input, it would not necessarily have impacted the planned investments.

In Alectra Utilities' submission, it would be unreasonable and, indeed, wasteful to discount the value of customers' opinions, or to deny Alectra Utilities the opportunity to record the full amount of its eligible capital costs to the CIVA based on the revisions to the eligible capital materiality threshold.

(c) Reply to Other Parties' Submissions

(i) Customer Feedback Supports Investing Beyond Base Rates

AMPCO submits that Alectra Utilities' proposal to invest in capital beyond the level supported by base rates is at odds with customer preferences.[89] Little detail is provided to support this argument.

AMPCO's submissions on this point are simply inaccurate. The first key finding in the customer engagement report states, in bold text, that "**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**."[90] These investments include overhead and underground system renewal, transformer replacement, monitoring / control equipment, and rear-lot conversion.[91] Customers clearly appreciate that investment is needed in these categories of "customer facing" infrastructure. Moreover, they acknowledge that these investments have a cost, and they are willing to pay for the benefit they will receive.[92] Table 1 below summarizes customer feedback on the rate impact of the proposed DSP investments.[93]

Table 1 – Customer Feedback on the DSP Rate Impact

Percentage Who Say Rate Increase is Reasonable or at least Necessary

Rate Zone Breakdown *% Favourable* *n-size for sample sizes <60*	**ERZ**	**BRZ**	**HRZ**	**PRZ**	**GRZ**
Residential	78%	69%	80%	75%	81%
Small Business	73%	91%	74%	70%	80%
GS > 50 kW – 4,999	34/43	1/2	17/20	44/59	10/15
Large Use	3/3	2/3	6/7	1/1	n/a

This question is only asked after customers have provided both their initial response to each category of Alectra Utilities' proposed investment and after an opportunity to reconsider their initial reviews after seeing their total rate impact. It is simply not credible to conclude from these results that customers do not support an investment plan that exceeds base rates. Customers were

[89] AMPCO Submission, p. 18.

[90] Customer Engagement Second Phase Report, Exhibit 4, Appendix C02, p. 3 (emphasis in original).

[91] Ibid.

[92] Ibid., p. 5.

[93] Ibid.

presented with bill impacts of the investment options, both individually and aggregated across categories over the five-year term of the DSP. The very clear majority view was that investment was needed, and that a rate increase is reasonable or necessary.

BOMA argues that the customer engagement workbook included incorrect bill impact information, in that the bill impacts did not include the bill impact of the M-factor investments.[94] Again, this submission is simply incorrect. Each workbook (for different customer classes) includes a section in the preamble entitled "How much can you expect to pay over the next few years?".[95] These preamble sections set the baseline for the consultation, explaining critical background information including the major elements of the Ontario electricity system, the price of electricity[96] and historic reliability. This information includes expected rate increases under previous decisions customized by rate zone and rate class. The preamble goes on to explain that Alectra Utilities has the option to stay within existing rates, or to invest more to address system issues with a corresponding rate impact.[97] The entire context of the consultation that follows makes it clear that additional investments will have a bill impact. A participating customer who indicated a preference for incremental investments would clearly see the bill impact of those investments at multiple stages of the online workbook.

(ii) Customers Not Engaged on Issues Beyond the Scope of this Proceeding

Some parties argue that the customer engagement was deficient because it did not inform customers of the rate of return embedded in Ontario LDCs' rates or the level of savings associated with the merger.[98] In Alectra Utilities' submission, it would have been unhelpful to both the OEB and to the utility's capital planning if the customer engagement process had explored the details of issues that are beyond the scope of this proceeding, such as the OEB's approach to calculating the cost of capital, price-cap rate-setting, or merger policies.

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[94] BOMA Submission, p. 13.

[95] For example, see the residential customer version of this information on Exhibit 4, Appendix C02, sub-appendix 1.0, p. 30.

[96] Broken out between total bill and Alectra Utilities' share.

[97] Exhibit 4, Appendix C02, sub-appendix 1.0, p. 31.

[98] AMPCO Submission, p. 20; CCC Submission, p. 10; VECC Submission, p. 5.

The absence of these points is not a deficiency, but rather a reflection of the issues that are before the OEB in this rate setting proceeding. There is no question that customers need to be asked in relation to the OEB-determined rate of return, nor the terms of the merger as approved in the MAADs proceedings. If Alectra Utilities were to survey customer views on these aspects, this would only increase the complexity of the engagement process, demand additional time from customers (which could affect participation rates) or lead customers to provide feedback on aspects that are not relevant to this proceeding.

Like any public opinion research, Alectra Utilities' customer engagement process must strike a balance between the level of detail (and corresponding time required to absorb and respond to information) and the level of participation. Too little detail, and customers will feel ill-equipped to participate in the research. Too much detail, and they will feel overwhelmed and refuse to participate. Alectra Utilities is confident that Innovative achieved this balance, and that discussion of extraneous rate-making and merger policy issues would only have served to reduce participation and confuse participants, without adding incremental value for customers, the utility, or the OEB.

(iii) Reliability Information was Presented Accurately and Appropriately

Parties argue that the customer engagement materials included incomplete or inaccurate information on the utility's reliability.[99] AMPCO is the only party that addressed this issue in any detail, arguing that the workbook presented historic reliability in a way that suggests a steady, year-over-year decline in reliability. AMPCO alleges that the presentation was misleading since customers were not provided with raw SAIFI and SAIDI data for the historical period.

The information presented to customers in the work is accurate and accessible to a broad audience. The customer engagement materials summarize the reliability trend, which accurately demonstrates that the average number of outages and the average duration of outages has increased. The long-term trend in system reliability is discussed in detail in section G2 below of these reply submissions.

While it would not have been practical in the customer engagement workbook to present individual values for each data point and further breakdowns of individual causes for worsening reliability

[99] AMPCO Submission, p. 18-20; EP Submission, p. 11.

each year, the materials did present SAIDI by cause codes, which showed that Defective Equipment and Adverse weather contribute to over 50% of SAIDI for years 2014-2018.[100] As these reliability challenges are central drivers of the investment choices that were at issue in the customer engagement process, Alectra Utilities is confident that customers were provided with sufficient detail to appreciate the costs and benefits of the proposed investments in these areas, which is the purpose of the contextual information in the workbook.

AMPCO further argues that customers were provided with one case study and were not provided with total cable failure data over time or information on how the reliability projections of cables were derived.[101] As discussed in the prior section, customer engagement must balance the level of detail provided to customers with the accessibility of the materials and the level of participation.

Alectra Utilities provided customers with sufficient data in a manner that enabled them to make a meaningful choice in terms of cable replacement and rejuvenation investment. The workbook provided customers with the average five-year SAIDI impact for the defective equipment category.[102] The cable case study allowed customers to understand the unique failure effects of underground cable, which were the subject of the decision being put to customers. For example, with any other equipment failure, if it is repaired or replaced it is expected that the equipment should perform satisfactorily in the immediate future. However, in the case of cable segments, this is not true.

Alectra Utilities identified the kilometers of cable that it would replace under base rates and presented investment options that would result in slower or faster replacement rates. Alectra Utilities presented the recommended pace option (maintaining the current levels of reliability) based on customer preferences identified in the 2018 phase of customer engagement.[103] Alectra Utilities did not provide details on how the reliability projections for the various pacing options were derived due to the complexity of analysis and because it would not offer additional meaningful information to customers. In Alectra Utilities' submission, this presentation

[100] Exhibit 4, Tab 1, Schedule 1, Appendix C02, sub-appendix 1.0, p. 33.

[101] AMPCO Submission, p. 19-20.

[102] Exhibit 4, Tab 1, Schedule 1, Appendix C02, sub-appendix 1.0, p. 40 for Residential customers (comparable materials were provided to all customer classes).

[103] Exhibit 4, Tab 1, Schedule 1, p. 34.

appropriately balanced the decision before customers (underground cable renewal pacing) with the customer outcomes associated with that work (cost and reliability performance).

(iv) Customer Engagement Evidence Accurately Reflects Responses

BOMA argues that both the customer engagement report prepared by Innovative and the evidence prepared by Alectra Utilities "mislead the Board" by providing an inaccurate or incomplete report on the importance of keeping rates low.[104] The only specific allegation that BOMA makes is that the evidence omits discussion of the priorities of GS customers and "downplays the importance of customers' responses that lower rates are the consistent first priority of all customers classes except for very large customers."[105]

BOMA's allegations are unfounded. Both the Innovative report and Alectra Utilities' further evidence are clear that price is the top priority for all customers except large-use consumers. In Innovative's "placemat", the first section clearly shows the breakdown of customer needs and priorities.[106] The first need identified by all customer classes other than large use was "lower rates" (large-use customers said "don't know"). The next section of the placemat sets out customer priorities, which are consistently price followed by reliability, except for large-use customers who prioritize reliability first. Alectra Utilities' narrative evidence provides the same information, clearly explaining that large-use customers are the only class that prioritizes reliability above price.[107]

Alectra Utilities has been clear, both in this proceeding and in its prior ICM applications, that customers' top priorities are price and reliability. This finding has been consistent and is the focus of the DSP. As set out in Exhibit 2, Tab 2, Schedule 2, page 2:

> The DSP "focus[es] on addressing the top priorities identified through engagement with the utility's customers. The priorities of Alectra Utilities' customers are that the company should maintain overall reliability and mitigate the impacts of extreme weather on service reliability, while ensuring that distribution rates are reasonable."

[104] BOMA Submissions, p. 12-13.

[105] Ibid., p. 12.

[106] Exhibit 4, Appendix C01.

[107] Exhibit 2, Tab 1, Schedule 2, p. 9, line 20.

(v) Methodology was Appropriate and Consistent with Prior OEB Approvals

The parties are divided in their views on Innovative's methodologies. Some argue that customer engagement should have included additional topics, while others argue that the consultation was already too expansive. Energy Probe argues that the customer engagement process was "not properly designed" and that it included "incomplete information on system reliability."[108] At the same time, CCC argues that "the level of complexity regarding the surveys and workbook was significant" and therefore "[customers'] capacity to answer questions regarding complex investment decisions and trade-offs must be questioned."[109] In effect, the parties argue that the customer engagement was both lacking the level of detail required to educate customers on the issues, but simultaneously too complex for customers to comprehend.

While the subject matter of the consultation must be identified by the company, Alectra Utilities relies on the experience and expertise of Innovative to assess the appropriate balance between detail and accessibility in preparing the consultation materials. The evidence sets out the various efforts that Innovative took to ensure that the consultation materials achieved this balance:

- Innovative tested the second phase workbook with customers to assess whether the customers had the information they needed to respond to the questions, whether the workbook was too long or whether the workbook was missing any significant topics.[110]

- The workbook itself included two key diagnostics questions; an overall impression question and a question asking if the survey had too much or too little information.[111] Eighty-two percent of the respondents had a favourable impression with only 12% unfavourable and 7% indicating they didn't know. Eighty percent said the workbook had the right amount of information with 5% saying too little and 15% saying too much.

- The fact that over 32,000 completed the full workbook is further indication that customers found the material accessible and the experience interesting.

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[108] EP Submissions p. 10.

[109] CCC Submission, p. 10.

[110] Exhibit 4, Appendix C02, p. 12.

[111] Exhibit. 4, Appendix C02, sub-appendix 1, p. 84-85 for Residential customers, p. 134-135 for Small Business customers, p. 182-183 for GS > 50 kW customers, and p. 229-230 for Large Use customers.

Alectra Utilities has identified two discrete methodological issues raised by parties:

i) The data cannot be tested due to a lack of interviewer instructions and a refusal to share raw survey data; and

ii) The customer engagement workbook was "suggestive".

Alectra Utilities responds to these methodological issues below.

(A) Data cannot be tested due to lack of interviewer instructions and a refusal to share raw survey data

MANA argues that Innovative conducted the customer engagement "in a way that prevents consideration of its conclusions."[112] MANA alleges that two specific issues prevent testing of the customer engagement results. First, that Alectra Utilities did not provide written instructions on the form or content of the engagement to Innovative. Second, that Alectra Utilities refused to provide the raw data underlying the customer engagement research. In response, Alectra Utilities notes that there were no interviewers to instruct, and that Alectra Utilities cannot share raw data without changing survey permissions. Alectra has shared the questions and the background material in the order in which they were presented and provided detailed sample validation data. Alectra Utilities responds to MANA's submissions in greater detail below.

On the issue of providing written instructions, Alectra Utilities relies on Innovative to determine the appropriate forms of research to provide meaningful input to the investment planning process, and to satisfy the OEB's expectations. This is Innovative's area of expertise and Alectra Utilities relies on it to propose and develop appropriate processes.

In developing the approach used for this engagement, both Innovative and Alectra Utilities relied on the OEB direction expressed in the Handbook and in previous decisions. As an example, it was in response to previous decisions that Alectra Utilities identified customers by the nature of their service, which allowed Alectra Utilities to explore design issues for its rear lot program. Responding to previous decisions was also a key factor in finding ways to compare support or

[112] MANA Submission, p. 10.

opposition to specific investments in rear lot, overhead and underground equipment based on whether customers would directly benefit from those investments or not.

More importantly, Alectra Utilities believes that MANA has mis-applied the passage it cites in its submissions regarding the importance of maintaining interviewer instructions as part of research. The representative research that was conducted by Innovative was done using an online workbook – there was no interviewer to instruct. To the extent that human interviewers were used in the referenced telesurvey, the full interview script was provided in the pre-filed evidence.[113]

On the issue of sharing raw survey data, the Market Research and Intelligence Association ("MRIA"), the professional association for market research in Canada when this work began, states the following in its Ten Core Principles:

> The following principles summarize the ideas enshrined in the MRIA Code of Conduct. These principles are founded upon the history of practice of marketing research in Canada, the ICC/ESOMAR Code of Marketing and Social Research and the principles underlying the Personal Information Protection and Electronic Documents Act (PIPEDA).
>
> PRINCIPLE 3: PUBLIC'S RIGHT TO PRIVACY
>
> The use of research data should extend only to those purposes for which consent was received. The public's desire for privacy and anonymity is to be respected.[114]

As a result, the first page of the workbook specifically commits Innovative to keeping all individual responses confidential.

As with all credible social science, Innovative has shown the questions and the background provided for each question in the order in which it was presented. Similarly, the full script for the telephone reference study has also been provided. Innovative has provided the full survey results broken down by rate class and rate zone. In addition, Innovative has provided further analysis by economic vulnerable or by reported service type where appropriate.

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[113] Exhibit 4, Appendix C02, sub-appendices 3.1 and 3.2.

[114] Marketing Research & Intelligence Association, Ten Core Principles (MRIA Code of Conduct), online: www.mria-arim.ca.

Given the new use of an online survey tool, Innovative provided a detailed analysis of customers with emails versus the total customer population by the known population characteristics of geography and electricity usage. In addition, Alectra Utilities commissioned a telephone reference survey to allow comparisons on attitudinal measures. The combination of this information allows an independent firm to replicate Innovative's work, which is the key requirement of transparency in social science.

(B) The Workbook Provided Appropriate Context and was not Suggestive

Some parties have argued that the workbook "suggested" answers to participating customers.[115] MANA made substantive submissions on the point, arguing that both the background information provided to customers and the phrasing of the investment options biased customers to ward answers that Alectra Utilities preferred. The key concern was the use of the term "recommended" in describing the options preferred by planners.

In describing the purpose of the second phase engagement, the workbook states "The point of this workbook is to allow customers, like yourself, to provide feedback on whether the planners have found the right balance or whether they should consider different options that better reflect your views."[116]

As noted in evidence and in the workbook, the key challenge in developing the DSP is that Alectra Utilities identified more capital needs than its base rates can support. The purpose of the workbook was to present customers with the key choices under consideration by planners.

It was also clear, in designing the engagement, that it was important to assess customers' willingness or lack of willingness to pay more than existing rates in order to fund the additional needs that planners had identified. Given previous OEB decisions, it was understood that there would need to be a question assessing the total impact of all the choices as well as project specific preferences.

[115] MANA Submission, p. 10-13; BOMA Submission, p. 1; CCC Submission, p. 10; AMPCO Submission, p. 19.

[116] E.g., Exhibit 4, Appendix C02, sub-appendix 1.0, p. 31 for Residential customers (the same text appeared in the workbooks for all customers classes).

Given all this, in testing the workbook Alectra Utilities asked customers whether they felt identifying the options recommended by planners would be helpful or if they felt it was biasing. As part of an exercise to assess whether planners had found the right balance between costs and reliability, customers preferred to know what planners recommended.

(vi) OEB Expectations for Customer Engagement Evidence are Met

MANA argues that Innovative's customer engagement work "does not meet any acceptable standard for opinion evidence."[117] MANA makes three broad assertions as part of this argument: (i) the "hallmarks of expert independence" are not met; (ii) the "financial basis for the retainer of Innovative is unclear"; and (iii) customers were incentivized to respond. None of these allegations withstand scrutiny.

Although these are strong assertions, MANA provides just one brief paragraph in support of each, citing no evidence that Innovative's conduct in any of these respects was improper or failed to meet the OEB's expectations for customer engagement evidence. Nor did MANA participate in the technical conference or the hearing of this application, where it would have had an opportunity to explore each of the issues it raises in relation to the standard of Innovative's evidence. It is entirely inappropriate to challenge the validity of Innovative's qualifications for the first time in final argument, without exploring any of those issues beyond the written discovery process.

While prior decisions of the OEB do not bind the panel in this proceeding, it is nonetheless telling that Innovative has provided customer engagement reports in dozens of OEB proceedings not just for Alectra Utilities but for many other parties. In none of those proceedings did the OEB find any issue with Innovative's conduct, expertise, or in the value of its evidence in satisfying the OEB's expectations for customer engagement.

Alectra Utilities also notes that the company retained Innovative to assist the company in preparing a DSP that accurately incorporates the needs, preferences, and priorities of its customers, as

[117] MANA Submission, p. 8.

required by Section 2.1.7 of the OEB's *Filing Requirements for Electricity Distribution Rate Applications*[118] and the *Handbook for Utility Rate Applications*.[119]

MANA argues that "[a]lthough Alectra has provided copies of some documents related to Innovative's retainer, it has refused to disclose the financial basis for the retainer."[120] Given the lack of any relevant evidentiary reference or description of the "financial basis", Alectra Utilities does not know what this allegation refers to. And the record is to the contrary: Alectra Utilities filed three separate Letters of Agreement between the company and Innovative in relation to the customer engagement research in this proceeding.[121] MANA's only evidentiary support for this point is the uncontroversial fact that Alectra Utilities has previously engaged Innovative to conduct customer engagement research. Indeed, the results of that prior research have been filed in multiple OEB proceedings. Alectra Utilities submits that MANA's allegations regarding the "financial basis" of Innovative's retainer are unclear, unsubstantiated and should be ignored.

Finally, MANA speculates, yet again with no evidentiary basis and without exploring the issue beyond discovery, that Innovative may have biased customers' responses by incenting participation by entering survey participants into a draw to win one of ten $500 prepaid credit cards.[122] Providing incentives is a standard research practice in online surveys. It is simply an acknowledgement that customers' time has value. For every person who received an incentive, 3,200 participants did not. Moreover, whether or not a participant received one of the cards was unrelated to the nature of the responses they provided.

2. Reliability

(a) Overview of the Declining Reliability Submission

Parties have adopted a range of positions on the reliability trends experienced by Alectra Utilities' customers and how Alectra Utilities considered those trends in the development of the DSP. OEB staff submits that Alectra Utilities' reliability trends are insufficient to support cable renewal

[118] Dated July 12, 2018, p. 10-11.
[119] Handbook to Utility Rate Applications, dated October 13, 2016, p. 11-12, (the "Handbook")
[120] MANA Submission, p. 9.
[121] Response to MANA-14 Attach 1, Attach 2, and Attach 3.
[122] MANA Submission, p. 9.

investment since reliability measures are subject to inter-year variances and number of outage events due to deteriorated cables are not increasing. AMPCO and SEC allege that Alectra Utilities' distribution system reliability is not worsening and compares favorably to industry average reliability. Energy Probe agrees with Alectra Utilities that system reliability "has declined materially in the PowerStream, Horizon and Enersource Rates Zones and has continued to decline post-merger" and that "system reliability is stable in the Brampton and Guelph Rate zones."[123] BOMA, VECC, MANA, PWU, DRC and CCC did not raise any specific concerns with the evidence on declining system reliability.

The concerns on reliability trends raised by the OEB staff, AMPCO, and SEC fall into five categories:

i) Use of historical data to derive trends of deteriorating reliability;
ii) Alectra Utilities' reliability relative to industry trends;
iii) Impact of adverse weather on reliability trends;
iv) Impact of scheduled outages on reliability trends; and
v) Categorization of Controllable Outage Events.

Alectra Utilities addresses each category of argument in the following sections. As shown below, the evidence is clear that reliability is in fact declining. Increased investment in the utility's underground distribution system and storm resilience is critical to stopping this serious trend and preventing a potentially insurmountable backlog of renewal investment in later years.

(i) Historical Data Shows a Clear Trend of Declining Reliability

Parties make several submissions based on various interpretations of the historical reliability of Alectra Utilities' distribution system. OEB staff submits that reliability metrics are inherently subject to inter-year variances[124] and that a one-year increase in reliability data is not sufficient to draw a conclusion on long-term reliability.[125] AMPCO's position is that a declining reliability trend is not evident[126]; the reliability of Alectra Utilities' distribution system cannot be

[123] EP Submission, p. 9.
[124] OEB Staff Submission, p. 30.
[125] Ibid., p. 33.
[126] AMPCO Submission, p. 2.

characterized as declining and that one year of data is insufficient to draw conclusion on reliability trends.[127] SEC argues that a five-year reliability worsening trend presented in the DSP is mostly driven by one year (2018).[128]

Alectra Utilities agrees with the implicit premise of the parties' submissions: reliability is not a single-year issue. It is about longer-term trends driven by the condition of the relevant assets. Consistent with this view, Alectra Utilities has not presented reliability on the basis of a single bad year (i.e. 2018). As required by the OEB Filing Requirements, the DSP presents reliability over a five-year historical period.[129] A five-year historical period is also consistent with the reporting and tracking of reliability results by the OEB on the Distribution Scorecard and consistent with the calculations outlined in 2.1.4.2 of OEB's Reporting and Record Keeping Requirements.[130]

While the parties suggest that Alectra Utilities' reliability is driven by poor reliability in 2018, taking a longer-term view (beyond the five years presented in the pre-filed evidence) makes it clear that there is a significant long-term deteriorating trend in system reliability for Alectra Utilities (and its predecessor utilities). Figures 3 and 4 below illustrate 2010-2018 SAIDI and SAIFI, respectively, excluding Major Event Days ("MEDs") and Loss of Supply outages experienced by Alectra Utilities (and its predecessor utilities). Both figures show an increasing trend (i.e., worsening reliability). Over this nine-year historical period, SAIDI has worsened at an average rate of 6.5% per year[131] and SAIFI has worsened at an average rate of 4.7% per year.

[127] Ibid, p. 8.

[128] SEC Submission, p. 33

[129] *Filing Requirements for Electricity Distribution Rate Applications*, Chapter 5.

[130] *Electricity Reporting & Record Keeping Requirements*, dated November 29, 2018.

[131] Exhibit K1.2 contains the data presented in Figures 3 and 4 above that was submitted on the record during the oral hearing in response to SEC's request to amend reliability tables provided in Staff-69 (Tr. Vol 1, p. 3, lines 15-25).

Figure 3: Alectra Utilities and predecessor utilities - SAIDI LOS and MEDs excluded (2010-2018)

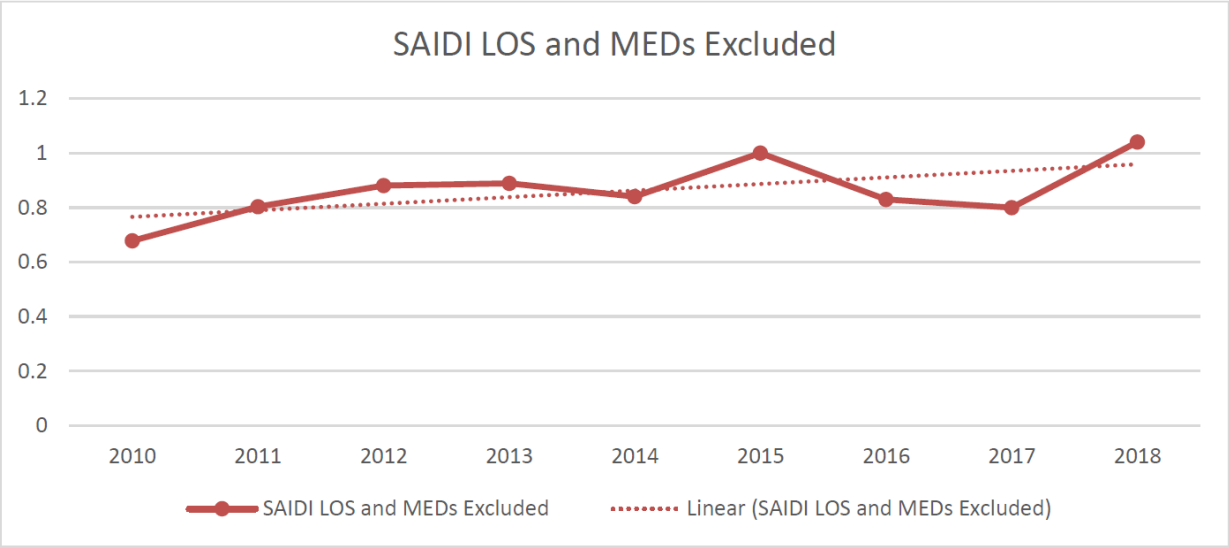
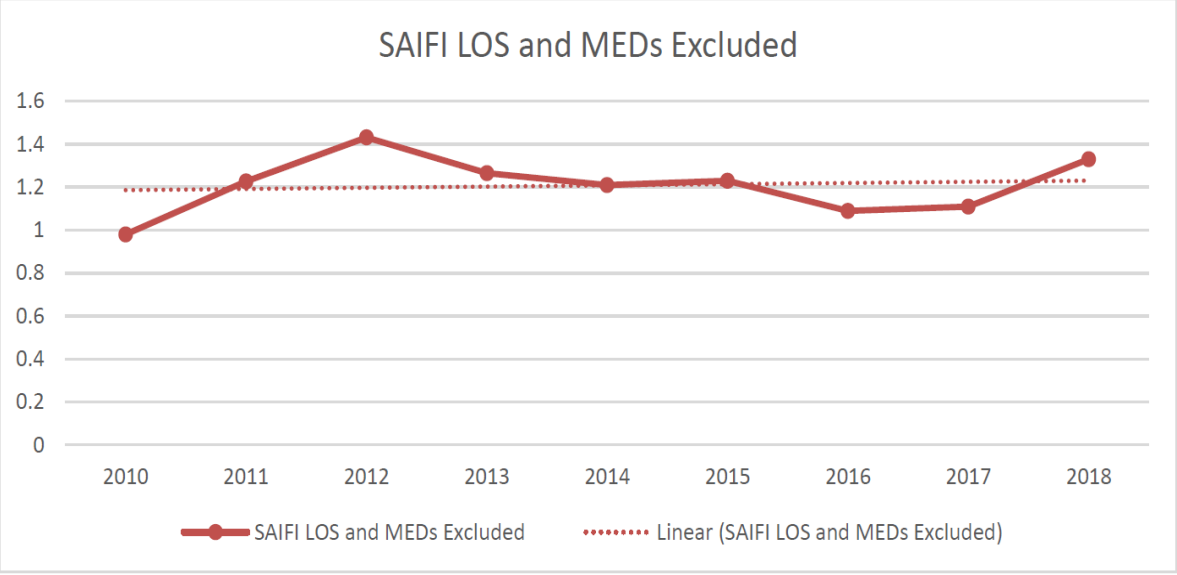


Figure 4: Alectra Utilities and predecessor utilities - SAIFI LOS and MEDs excluded (2010-2018)



Underscoring the fact that poor reliability is not a "one-year issue" is that removing the 2018 year from the analysis does not change the worsening trend. When 2018 is removed from Figures 3 and 4, they nonetheless show worsening reliability at an average rate of 3.1% and 2.6% per year

for SAIDI and SAIFI, respectively.[132] In both long-term scenarios, whether including or excluding 2018 results, a decline in Alectra Utilities' reliability is clearly demonstrated.

Alectra Utilities evidence overwhelming points to the conclusion that reliability trends are declining. Considering the utility's reliability (and that of the predecessors) for both mid- and longer-term periods, it is clear that Alectra Utilities' reliability is in fact deteriorating.

(ii) Alectra Utilities' Reliability is Worsening While the Industry's Reliability is Improving

Both AMPCO[133] and SEC[134] submit that Alectra Utilities' reliability is better than the Ontario industry average. These submissions distort the reliability issues facing Alectra Utilities' customers and the distribution system in several respects. Specifically, they:

i) include Loss of Supply and MEDs,
ii) compare Alectra Utilities against arbitrary comparators (in SEC's case), and
iii) critically, avoid any real consideration of the drivers of the utility's worsening reliability trend.

Alectra Utilities responds to each issue below.

MEDs Should be Excluded from Reliability Measurement

AMPCO compares Alectra Utilities' (and predecessor utilities) 2014-2018 reliability results, inclusive of Loss of Supply and MED outages, against the industry average over the same period. To ensure an accurate comparison of reliability over time and against comparators, MED and Loss of Supply outages must be excluded from the comparison as such events introduce outliers and skew results in the assessment.

[132] Ibid.
[133] AMPCO Submission, p. 10.
[134] SEC Submission, p. 33.

SEC's Comparison with Other Utilities is Meaningless

SEC compares Alectra Utilities' 2018 reliability indexes against six local distribution companies that differ in service area size and customer demographics.[135] This comparison is flawed, not only for using a single year as a reference point (which is ironic, given that SEC states in the preceding paragraph that "one year is not a trend"[136]), but also because there is no meaningful basis for the comparators SEC selects, other than the fact that their absolute reliability performance is comparable to Alectra Utilities in 2018. There is no evidence or analysis supporting the "peer group" that SEC has selected for this analysis.

If Alectra Utilities compares its reliability performance against another large regional LDC, the results are clear that Alectra Utilities' reliability is worse, both in terms of trend and absolute value. For example, Toronto Hydro-Electric System Limited's 2018 SAIDI was 0.81 and its SAIFI was 1.14, showing an improving five-year reliability trend.[137] As discussed above, Alectra Utilities' performance was worse on both measures and shows an opposite, worsening trend. Alectra Utilities does not propose that this is the only or the best comparison[138], only that the specific comparators matter. Accordingly, SEC's one-year comparison is incomplete and should not be referenced to derive any meaningful comparison of reliability trending and performance.

Alectra Utilities submits that an appropriate comparison is to compare Alectra Utilities' five-year reliability trend against the Ontario Utility Industry[139] five-year reliability trend. To ensure a meaningful comparison across the industry, MED and Loss of Supply outages must be excluded from the reliability trend comparison to ensure events that introduce outliers are removed from the assessment.

The comparison, as presented in Table 2 below, indicates that the Ontario Industry Average SAIDI (excluding LOS and MED outages) trend improved at an annual average rate of 1.27% over the 2014-2018 period while Alectra Utilities' reliability worsened by 7.11% over the same time period.

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[135] Ibid.

[136] Ibid.

[137] Toronto Hydro-Electric System Limited 2018 OEB Scorecard, dated September 29, 2019.

[138] Although it is likely more applicable than comparing the company against North Bay, as SEC does.

[139] Exhibit K2.1, AMPCO Compendium, pp. 19-20 (2018 Yearbook of Electricity Distributors, Page 14-15).

The comparison of SAIFI (excluding LOS and MED) trend, as presented in Table 3 below, indicate that the Ontario Industry Average SAIFI (excluding LOS and MED outages) improved at an annual average rate of 1.41% over the 2014-2018 period while Alectra Utilities' reliability worsened by 2.98% over the same time period. This comparison clearly indicates that as industry reliability performance improves, Alectra Utilities' reliability trends have deteriorated.

Table 2: Comparison of SAIDI Trends - Alectra Utilities to Ontario Industry Average (2014-2018)

SAIDI Excl. MED & LOS (Hours)	2014	2015	2016	2017	2018	Ave Annual Change	Trend
Ontario Industry Average	2.74	2.7	2.79	2.85	2.59	**-1.27 %**	**Improving**
Alectra Utilities	0.84	1.00	0.83	0.80	1.04	**7.11 %**	**Worsening**

Table 3: Comparison of SAIFI Trends - Alectra Utilities to Ontario Industry Average (2014-2018)

SAIFI Excl. MED & LOS (Interruptions)	2014	2015	2016	2017	2018	Ave Annual Change	Trend
Ontario Industry Average	1.57	1.57	1.48	1.44	1.48	**-1.41 %**	**Improving**
Alectra Utilities	1.21	1.23	1.09	1.11	1.33	**2.98 %**	**Worsening**

Alectra Utilities' assessment of reliability impacts starts with the examination of system average indices including SAIDI and SAIFI (adjusted for MEDs as well as Loss of Supply Events) to monitor trends and validate performance of the system.[140] Alectra Utilities then investigates outage causes by prescribed cause codes to identify trends in causes of outages. Alectra Utilities' assessment of reliability continues with examination of reliability trends, by cause code at station and feeder specific levels, and finally at local area depth.[141] Alectra Utilities' approach is necessary as system average level performance measures mask worst performing areas and do not provide customer specific performance indicators necessary to identify system needs at

[140] Exhibit 4, Tab 1, Schedule 1, p. 113

[141] Ibid, pp. 161-164

neighborhood area granularity. Alectra Utilities' DSP includes system renewal projects developed at local neighborhood granularity levels to ensure Alectra Utilities' system investments address the worst performing areas of the system. For example, the cable replacement project No. 151141 in the Mississauga neighborhood surrounding Windjammer Road[142] in Erin Mills addresses deteriorating cables which service 576 residential customers. The customers in this area experienced nine outages over the last three years, more than two and half times the system average over the same time period. Due to the low number of customers, the improvements at Windjammer may not improve the overall system level reliability index but the 576 customers experienced poor reliability will benefit. Alectra Utilities' approach to identifying local area specific system renewal needs enables the utility to address the portions of the system that most significantly impact customers and are not apparent at the system average reliability level.

(iii) Impact of adverse weather on reliability trends

OEB staff and AMPCO make submissions on the relationship between adverse weather and the historical reliability of Alectra Utilities' distribution system.

i) OEB staff submits that based on a comparison of the number of customer interruptions and customer hours of interruption in 2017 and 2018, the impact of adverse weather outages had a higher impact on the increase in 2018 SAIDI and SAIFI results when compared to defective equipment outages.[143]

ii) Similarly, AMPCO submits that 2018 was an outlier year with respect to weather, as was 2013 and that the increase in 2018 can be explained by the increased contribution to SAIDI from adverse weather and MEDs.[144]

It is true that the increasing number of storms and severe weather events has substantially increased customer hours of interruptions over the last five years. To address this negative trend, Alectra Utilities has incorporated system renewal investment plans in the DSP to enhance the resilience of this overhead system to adverse weather events.[145] The proposed system renewal investment target

[142] Exhibit 4, Tab1, Schedule 1, Appendix B, pp. 307-308
[143] OEB staff Submissions, p. 31.
[144] AMPCO Submission, p. 9
[145] Exhibit 4, Appendix A05.

overhead system assets identified as vulnerable to storm damage. These investments directly address the customer needs which were identified in the first round of customer engagement to mitigate the outage impacts of adverse weather events. Investments to reinforce or replace deteriorated and poor condition overhead assets will address public and worker safety and mitigate the outage impact of adverse weather events.

However, neither OEB staff nor AMPCO accurately reflect this relationship between adverse weather and reliability. OEB staff's assessment of the impact of adverse weather events on Alectra Utilities' reliability does not account for outages due to MEDs. By excluding MEDs from their analysis, OEB staff are unable to distinguish from outages that are within the utility's ability to prevent, which are the subject of most utility capital planning. MED outages are, by their nature, outlier events. The Glossary of Terms for Cause of Interruption Codes as included in OEB's 2018 Yearbook of Electricity Distributors identifies MEDs as:

> *"an event that is beyond the control of the distributor and is: a) unforeseeable; b) unpredictable; c) unpreventable; or d) unavoidable. Such events disrupt normal business operations and occur so infrequently that <u>it would be uneconomical to take them into account when designing and operating the distribution system</u>."*[146]

Alectra Utilities submits that the appropriate comparison of year-over-year outages should be completed based on the exclusion of MED outages. In Figures 5 and 6 below, Alectra Utilities has revised Figures 4 and 5 from OEB Staff Submission has been updated to exclude MED events.[147] As shown below, once adjusted for MEDs, the impacts of adverse weather in 2018 relative to 2017 are less then Defective Equipment in the number of customer interruptions and equivalent to Defective Equipment in the customer hours of interruption.

[146] OEB 2018 Yearbook of Electricity Distributors, p. 146 (also K2.1 Page 24) [Emphasis added]

[147] Undertaking JT2.2

Figure 5: Alectra Utilities Number of Interruptions by Cause Code (excluding MEDs)

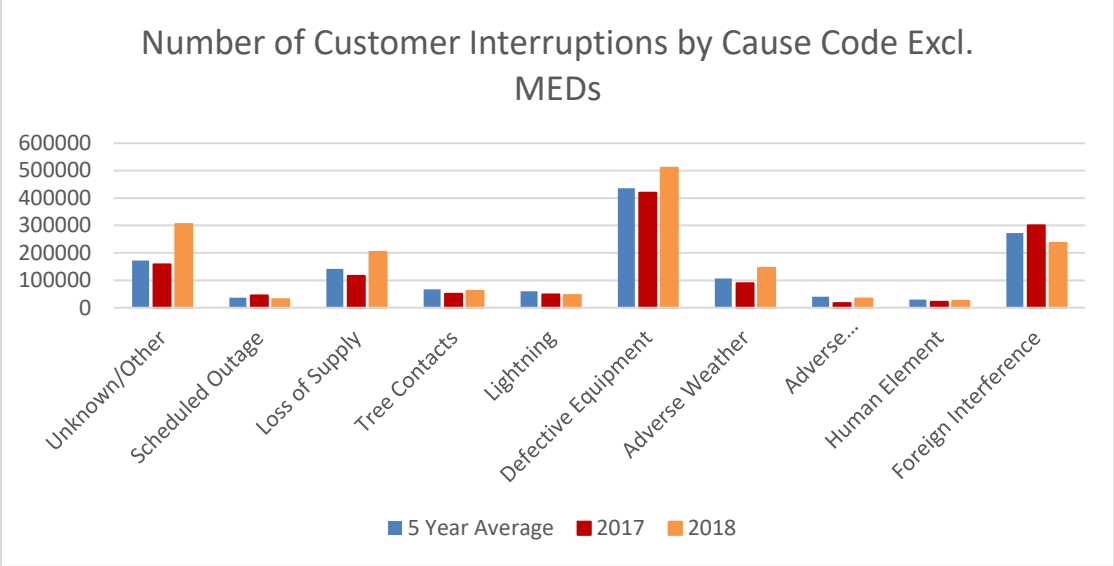
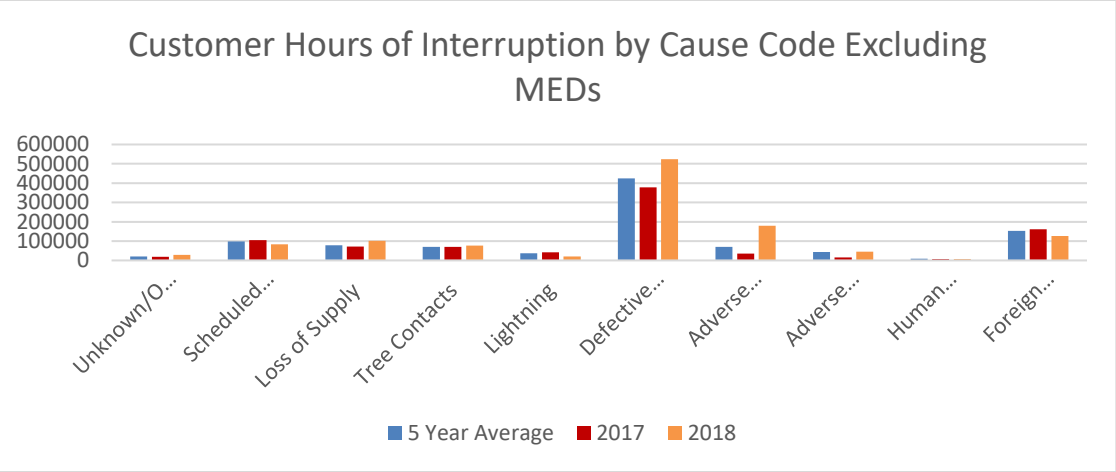


Figure 6: Alectra Utilities Hours of Interruption by Cause Code (excluding MEDs)



(iv) Scheduled Outages are Not the Leading Cause of Outages

AMPCO submits that the leading cause of outages over a five-year period from 2014 to 2018 at Alectra Utilities is not defective equipment or adverse weather, but rather scheduled outages.[148] AMPCO suggests that Alectra Utilities may be able to address reliability through "operational strategies."[149] AMPCO's calculation provides no meaningful information, since it fails to take into consideration the impact of customer counts on each outage event.

[148] AMPCO Submission, p. 10

[149] Ibid.

The flaw in AMPCO's analysis is that it grossly overstates the significance of scheduled outages. While the simple number of scheduled outages is high, the impact of these events is low. In Alectra Utilities' submission, the impact on customers is what matters when assessing reliability issues and investment options – not the simple number of a given event cause.

A brief comparison of two types of actual outages helps illustrate the flaw in AMPCO's reasoning. Consider the reliability impact of a scheduled transformer replacement and a feeder cable failure:

- In order to safely replace a leaking transformer, a scheduled outage for twelve customers was required for four hours. This scheduled outage resulted in 48 Customer Hours of Interruption.

- Restoration of a failed feeder cable which services 2,213 customers required an hour and 12 minutes to restore which resulted in 2,656 Customer Hours of Interruption.

Although both outage scenarios are identified as one outage event each, the resulting customers interrupted, and customer hours interrupted are substantially different.

As a result, it is evident that considering outage events without incorporating customer impact and duration mischaracterizes reliability outcomes. Over the five-year period from 2014 to 2018, scheduled outages result in 39% of the outage events[150] but only contributed to 6% to SAIDI and 2% to SAIFI.[151] Accordingly, Alectra Utilities submits that the OEB should not place any weight on AMPCO's submissions regarding outages causes.

(v) Presentation Day Slides Accurately Present the Controllable Causes of the Reliability Issues

AMPCO alleges that Alectra Utilities inflated the impact of Defective Equipment and Adverse Weather on Alectra Utilities' reliability in its materials on Presentation Day.[152] AMPCO argues that Alectra Utilities was being "selective" in the outage types it presented, thereby overstating the impact of these two causes.

[150] Response to AMPCO-18

[151] Undertaking JT2.2 Questions 4 and 5.

[152] AMPCO Submission, p. 12.

The slide at issue included in a section of the presentation materials that summarized the focus areas of the 2020-2024 DSP, which include the large amount of outages due to defective equipment and adverse weather.[153] As Alectra Utilities explained during the hearing of this application, Presentation Day materials were meant to reflect the areas where planned capital investments could affect customer reliability. AMPCO's consultant asked whether the Presentation Day slide inflates the role of defective equipment and adverse weather on system reliability.[154] Alectra Utilities' witness responded:

> "…in our approach to dealing with reliability issues, we proportionately place focus on things that are within our ability and control.
>
> And so what we're trying to reflect here is that we feel that these particular causes of outages are within our focus of control, and those are the ones that we're focusing on.
>
> We were not trying to explain that this is all-inclusive. We did in the presentation, and I recognize that this is a slide taken out of context."[155]

AMPCO went on to ask the witness to "… just explain how adverse weather is controllable?"[156] Alectra Utilities' witness responded by cited a study that had been conducted by CIMA, an independent engineering firm, to help Alectra Utilities understand the implications of increasing severity and impacts of storms on its system.[157] The witness went on to explain that:

> "[T]here are plans we have put into our Distribution System Plan that focuses on specific areas of the system that are very vulnerable to these particular storms and outages, and so we feel that we can mitigate, not eliminate, but mitigate the impact of those storms on our customers."[158]

AMPCO did not pursue the issue beyond that response. However, in its submissions, AMPCO now states that "[i]t's not clear to AMPCO how Adverse Weather is controllable by Alectra."[159]

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[153] Exhibit KP1.1, slide 16.

[154] Oral Hearing, Tr. 2, October 17, 2019, p. 22, lines 1-4.

[155] Ibid., lines 5-14.

[156] Ibid., lines 18-19.

[157] *Hardening the Distribution System against severe storms*, filed as Exhibit 4, Tab 1, Schedule 1, Appendix K.

[158] Oral Hearing, Tr. 2, October 17, 2019, p. 23, lines 18-23.

[159] AMPCO Submissions, p. 12.

In Alectra Utilities' submission, the witness' response above clearly explained that it is the outages due to adverse weather – not the weather itself – that is controllable.

As Alectra Utilities explained to AMPCO during the Oral Hearing, Alectra Utilities also focused on outages due to adverse weather because it was a category of outages that customers identified as important through customer engagement.[160] In the 2018 phase of customer engagement, customers clearly indicated their view that Alectra Utilities should prioritize reliability related to extreme weather events.[161]

Secondly, AMPCO compared the methodology applied by Alectra Utilities to identify controllable outages and concluded that Alectra Utilities methodology is different from the methodology applied by the legacy PowerStream. AMPCO identifies that Alectra Utilities included additional outage cause codes such as adverse weather, animal contacts or unknown/other causes as controllable where the legacy PowerStream did not but included scheduled outages.[162] AMPCO suggests that scheduled outages should be included in the reliability graphs.[163]

Relative to PowerStream, Alectra Utilities considers a broader range of outage codes to be controllable. If Alectra Utilities continued PowerStream's practice of viewing adverse weather outages as uncontrollable, it would effectively be ignoring the clear data that customers expect the company to do a better job at responding to adverse weather events.[164] Even if Alectra Utilities were to consider the predecessor PowerStream's controllable factor outages instead of Alectra Utilities controllable factor, the percent contribution of defective equipment would increase from 45% to 69%.[165]

Finally, AMPCO claims that scheduled outages are within Alectra Utilities' control and should be included in the presentation of controllable outages.[166] Alectra Utilities considers scheduled outages as mandatory outages necessary to safely complete equipment maintenance, inspection,

[160] Oral Hearing, Tr. 2, October 17, 2019, p. 23-24.
[161] Exhibit 4, Tab 1, Schedule 1, Appendix C01.
[162] AMPCO Submissions, p. 12.
[163] Ibid.
[164] Exhibit 4, Tab 1, Schedule 1, Appendix C01.
[165] Undertaking JT2.2 Question 4.
[166] AMPCO Submissions, p. 13.

repair and replacement work. As explained in the previous section, Alectra Utilities manages scheduled outages to minimize the duration and number of customer impacted which result in a minor impact on the overall reliability of the distribution system. And again, even if Alectra Utilities were to include scheduled outages in the controllable outage graph, this would result in an immaterial adjustment of defective equipment outages from 45% to 41% and adverse weather events from 33% to 30%.[167] Relative to all other controllable outages, the impact of defective equipment and adverse event outages would continue to contribute to the majority of controllable outages at 71%.

For these reasons, Alectra Utilities respectfully submits that the OEB should disregard AMPCO's submissions on the utility's Presentation Day materials.

(b) Renewing Underground Assets is Critical to Addressing Real Reliability Challenges

OEB staff submit that, "while… replacing aging cables reduces the likelihood of cable failures, there must be an appropriate balance between reliability and capital spending."[168] Alectra Utilities agrees with this principle and believes that the evidence demonstrates that the underground cable investment proposed in the DSP achieves that balance. As summarized in these submissions above and throughout the DSP, the capital investments in this plan are fundamentally driven by the value that they provide to customers. If a project did not produce clear, quantifiable value, it would not be in the DSP. In the case of underground cable renewal investments, the lion's share of the value created is from customer reliability.

As is evident from the parties' submissions, there are many ways to measure and interpret reliability statistics. However, it is indisputable that the ultimate effect of the materially declining reliability in Alectra Utilities' underground distribution system is greater harm to the utility's customers. The evidence describes in detail the consequences that repeated underground asset failures have for a neighbourhood.[169] The York Hills and Hilda event described in the evidence is

[167] Undertaking JT2.2 Question 4.

[168] OEB staff Submissions, p. 33.

[169] Exhibit 4, Tab 1, Schedule 1, p. 4-5.

not unique and situations like this will increase if underground cable renewal investments do not increase.[170]

Each of the underground cable renewal projects in the DSP will provide real benefits to the customers served by those assets and will help avoid situations in which Alectra Utilities is forced to respond reactively to a growing tide of deteriorated assets through more costly and less efficient means of renewal.

3. Specific Areas of Investment

(a) Underground Cables

(i) Overview

As set out in Alectra Utilities' Argument in Chief, the condition of the utility's underground cable is a serious concern for the company and its customers. Investments in underground systems renewal are a priority for the utility's distribution system in the 2020-2024 period.[171]

Parties have adopted a range of positions on the need for Alectra Utilities to increase the level of investment in underground systems in the DSP. Energy Probe supported Alectra Utilities' assessment of the need for underground system renewal, submitting that "there is enough evidence on the deteriorated condition of the Underground distribution system that *action is required **now***."[172] Other parties challenged elements of the utility's assessment of the need for underground system renewal:

- OEB staff argues that Alectra Utilities' methodology to determine underground cable condition, project selection and pacing of the renewal investment are insufficient and that Alectra Utilities should manage cable renewals at historical levels.[173] OEB staff submits that Alectra Utilities did not appropriately pace the cable renewal investments and proposes a $127million reduction to the cable renewal budget over the 2020-2024 planning period.[174] OEB staff also make submissions with respect to the discrete project criterion, which it

[170] Ibid., p. 5
[171] Argument in Chief, p. 16.
[172] Energy Probe Submission, p. 11 [Energy Probe's emphasis].
[173] OEB Staff Submission, p. 33.
[174] Ibid., p. 34.

implies should render underground cable investments ineligible for incremental capital funding.[175]

- AMPCO submits that Alectra Utilities' asset condition has improved over time; that cable failure rates are decreasing, leading AMPCO to suggest that the OEB should not approve the $135.7million of incremental funding for underground cables.[176]

- SEC submits that Alectra Utilities should increase efforts on annual maintenance and operating efforts to address declining reliability rather than replacing assets.[177]

No other parties raised specific concerns with the evidence on the need to increase the level of investment in underground system. The concerns on the underground system renewal investment plan raised by OEB staff, AMPCO and SEC fall into four categories:

i) Impact of deteriorated underground assets on reliability;
ii) Methodology for determining condition of underground assets;
iii) Selection and evaluation of underground system renewal investments; and
iv) Pacing of underground system renewal.

Alectra Utilities addresses each category of argument in the following sections. As outlined below, the evidence reflects that Alectra Utilities applied sound asset management, based on good utility practices, to derive prudent and appropriated paced underground cable renewal plans to deliver positive outcomes for customers, aligned with customer needs and preferences.

(ii) Leading Cause of Deteriorating Reliability is Underground Cable Failure

OEB staff argue that the number of historical cable failures does not fully reflect Alectra Utilities' view that customers are experiencing an increase in interruptions due to defective equipment.[178]

[175] Ibid., pp. 14-16.
[176] AMPCO Submission, p. 15.
[177] SEC Submission, Page 34
[178] OEB Staff Submission, p. 32.

OEB staff submit that a one-year increase in Customer Hours of Interruption due to cable failures is not sufficient to draw a conclusion on long term reliability.[179]

OEB staff's argument is based simply on the number of failures, but it does not account for the impact of those events on customers. Alectra Utilities evidence on cable failure measure of Customer Hours of Interruption incorporates both the number of customers impacted as well as the duration of the outages.[180] From 2014 to 2018, the average annual increase of Customer Hours of Interruption due to underground XLPE cable failures increased by 7.7% per year.[181]

The reliability trend of underground cable is decreasing, even without the particularly poor results in 2018. Removing 2018 from the trend analysis does not change the fact that cable failures are having an increasing impact on customers. The four-year period from 2014 to 2017 continues to show a 3.7% average annual increase of Customer Hours of Interruption due to underground XLPE cable failures. Alectra Utilities submits that increasing trends of cable failures, either on a five-year or four-year perspective are sufficient to conclude reliability trends to identify system renewal needs.

AMPCO submits that underground cable and cable accessory failures do not reflect the need for urgent replacement of underground assets.[182] AMPCO alleges that since Alectra Utilities customers experienced a decreasing number of failures in 2016 and 2017, a negative failure trend cannot be derived from historical failure data. AMPCO further claims that the same conclusion is true for Customer Interruption Minutes.[183]

Alectra Utilities submits that AMPCO's methodology for assessing a trend in underground cable failures is flawed. AMPCO's conclusion that reductions of cable failure events in two years fails to take into context the full five years of experience. Secondly, AMPCO's methodology does not consider the magnitude of year over year change and thus mischaracterizes the overall trend of the data. Alectra Utilities' assessment of the declining trend of reliability of underground cables

[179] Ibid., p. 31.

[180] Exhibit 4, Tab 1, Schedule 1, p.107

[181] Response to AMPCO 35 (b)

[182] AMPCO Submission, p. 15.

[183] In AMPCO's submission, Page15, Customer Interruption Minutes were incorrectly referenced using Number of Customer Interruptions for XLPE Cables.

considers both the full five years of cable failures, and the outage frequency and duration weighted by customer impact. Due to the flawed approach in AMPCO's assessment of underground reliability trends, Alectra Utilities submits that the OEB should disregard AMPCO's claim that underground cable failures over the 2014-2018 period do not establish a negative trend.

Secondly, AMPCO's interpretation of the record avoids the two most telling facts about the reliability of Alectra Utilities' underground cable assets: over the last five years defective equipment outages were the leading contributor to Alectra Utilities reliability deterioration; and that underground cable failures were the most substantial contributor of defective equipment failures. As shown in the DSP, over the 2014-2018 period, an average of 170,000 customers per year are impacted by XLPE cable failures resulting in an annual average of 200,000 Customer Hours of Interruptions.[184] Once reliability results are adjusted for MEDs, outages due to XLPE cable failures are by far the leading contributor to Alectra Utilities deteriorating reliability trend.[185]

(iii) Alectra Utilities Applied Good Utility Practices to Determine System Renewal Investments Based on Asset Condition

OEB staff and AMPCO challenge the asset management practices that Alectra Utilities employed to identify the underground asset renewal investments in the DSP. The parties' arguments on this theme, and Alectra Utilities' replies, are set out below.

OEB staff argue that, aside from distinguishing the type of cable asset (XLPE, PILC, EPR) and installation of the cable (direct buried, in-duct), Alectra Utilities based the asset condition of cables solely on age.[186]

It is simply not correct to say that age is the sole driver for Alectra Utilities' cable renewal prioritization process. The evidence clearly demonstrates that Alectra Utilities considers multiple inputs in determining the cable renewal approach, which include consideration of cable injection for eligible cable segments, assessment of historical outage events in the area, number of customers, location of cable and circuit configuration in addition to the condition of the cable (i.e.,

[184] Response to AMPCO-61 Attachment 1.

[185] Response to AMPCO-35 (b).

[186] OEB Staff Submission, p. 28.

Health Index).[187] In Alectra Utilities' submission, this error is a complete response to OEB staff's submission on this point.

OEB staff also argue that, since Alectra Utilities' Asset Condition Assessment ("ACA") practices continue to evolve and progress, outcomes of the ACA process should not be the sole determining factor for justifying increases to capital investments.[188]

The evidence, especially the independent expert evidence prepared by Kinectrics Inc. ("Kinectrics"), provides ample support for Alectra Utilities' ACA practices.[189] Alectra Utilities engaged Kinectrics to complete an assurance review of Alectra Utilities' Asset Condition Assessment processes and results. Kinectrics concluded that "Alectra's ACA is aligned with good utility practices. The processes, methodologies, and results are appropriate in serving as the basis for identifying system sustainment needs." [190]

It is unfair and unjust to suggest that Alectra Utilities should be denied funding on the basis that it strives for continuous improvement in asset management. Alectra Utilities' Asset Management Process strives for continuous improvement, which itself is a process that Kinectrics supports in its review of the utility's Asset Management practice.[191] Alectra Utilities commitment to continuous improvement reflects the Alectra Utilities strategy to optimize the operation of assets and related processes and enhance customer experience in a financially prudent manner.

AMPCO submits that Alectra Utilities' assets are improving over time.[192] Alectra Utilities' 2018 ACA reports that 6% of the assets are Very Poor and Poor condition, representing 17,782 both of asset units and km of cable. AMPCO argues that based on historical asset conditions assessments completed over a period ranging in 2013 to 2017, an aggregate 10% of assets were determined to be Very Poor or Poor condition, representing 29,292 both of assets units and km of cable. AMPCO further deduced that underground cable condition improved over time.

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[187] Exhibit 4, Tab 1, Schedule 1, p. 272

[188] OEB Staff Submission, p. 28

[189] Exhibit 4, Tab 1, Schedule 1, Appendix E.

[190] Exhibit 4, Tab 1, Schedule 1, Appendix E, Cover letter.

[191] Exhibit 4, Tab 1, Schedule 1, Appendix E, p. 9.

[192] AMPCO Submission, p. 6.

Alectra Utilities submits that AMPCO's conclusion that that asset condition is improving over time is based on an "apples-to-oranges" comparison of different data sets and clearly refuted by the evidence. As Alectra Utilities explained in the Oral Hearing, Alectra Utilities harmonized 2018 ACA can not be appropriately compared to results from legacy LDCs Asset Condition Assessments.[193] Kinectrics concurred with this conclusion. In the 2018 ACA Assurance Review, Kinectrics observed that "Each of the five legacy utilities conducted its own ACA prior to the formation of Alectra. Because the legacy utilities had different maintenance and data management practices, each utility had its own ACA methodology. This included different data interpretation, [Health Index] formulas and scoring systems."[194]

AMPCO incorrectly infers that, since Kinectrics was engaged by legacy utilities to conduct ACAs, the methodology applied by Kinectrics to drive the outcomes of those ACAs are uniform and could be aggregated for comparison.

AMPCO's claim also includes two additional flaws, which Alectra Utilities identified during the proceedings. First, AMPCO continues to incorrectly combine ACA results based on units and km of cable, the units of measure are different and cannot be combined.[195] Second, AMPCO's comparison does not consider the periods of time in which the legacy Asset Condition Assessments were conducted.[196] Aggregating results from assessments completed in different years, some separated by four years in length, further misguides the comparison. Alectra Utilities respectfully submits that AMPCO's conclusion is based on flawed reasoning and should not be given any weight.

(iv) Underground System Renewal Investments Address System Needs and Provide Customer Value

OEB staff, AMPCO and SEC raise concerns with Alectra Utilities' approach to underground system renewal investments and the value those investments provide customers. The concerns

[193] Oral Hearing Day 2, pp. 30-34.
[194] Exhibit 4, Tab 1, Schedule 1, Appendix E, p. 2.
[195] Oral Hearing Day 2, pp. 28-29.
[196] Response to AMPCO-2 (d), Table 2, p. 2.

with underground system renewal investment identification and selection for inclusion into the DSP stem from allegations some projects are not necessary.

Based on a review of Alectra Utilities' list of 884 projects, OEB staff identified eight cable replacement projects where business cases did not specify historical failures.[197] The eight identified projects represent $14.5million, equivalent to 4% of the total $332million proposed investment of 178 underground renewal projects in the DSP. OEB staff argue that the inclusion of future plans for cable replacement without a history of failure contradicts Alectra Utilities' practice of focusing on areas with historical failures. Further, OEB staff suggest that planning to replace cables in areas without historical failures is not necessary without Alectra Utilities-specific degradation curves based on Alectra Utilities' failure statistics.

In fact, the eight projects identified by OEB staff are part of multi-phases of renewals in subdivisions that are immediately adjacent to neighbourhoods that have experienced multiple outage events. The underground system in the area contain the same vintage and installation method of cable that has experienced failure and demonstrated deterioration. Alectra Utilities assesses and implements cable renewal investments by geographical areas.[198]

Five of the eight projects are planned for implementation in the later years of the DSP, specifically the years 2023 and 2024. The history of failures in adjacent neighbourhoods with similar vintage of cables provides Alectra Utilities with strong evidence that cables in both neighbourhood have deteriorated, and cable renewal is required. Alectra Utilities applied appropriate consideration and planning in determining whether to include such adjacent neighbourhoods in future plans. The evidence in this proceeding overwhelmingly reflects the benefits of proper planning with sufficient lead time for underground cable renewal projects, that provide the opportunity for joint utility projects that ultimately benefit customers and deliver outcomes at lower cost than emergency reactive replacement.

In challenging these eight projects, OEB staff reiterate their mistaken understanding that Alectra Utilities only considered age in selecting projects for cable renewals.[199] As described in section

[197] OEB Staff Submission, p. 28.

[198] Exhibit 4, Tab 1, Schedule 1, p. 273.

[199] OEB Staff Submission, p. 28.

(ii) above, Alectra Utilities considers a multitude of inputs in determining the cable renewal approach which include consideration of cable injection for eligible cable segments, assessment of historical outage events in the area, number of customers, location of cable and circuit configuration in addition to the condition of the cable (i.e. Health Index). [200] Alectra Utilities develops project plans for areas in phases to more effectively execute renewal work while minimizing the construction impact on customers, including scheduled outages.

Alectra Utilities submits that it would be imprudent to delay renewal in these neighbourhoods and expose Alectra Utilities customers to increasing outages so to develop failure data. Alectra Utilities cable renewal methodology, which includes both cable rejuvenation and cable replacement, was informed by thorough assessment of historical cable failures, installation methodologies, repair practices and rehabilitation options. Alectra Utilities (and predecessor utilities) conducted underground cable studies to fully recognize all the factors that contribute to the deterioration of cable, including age, type of cable and construction methodology.

OEB staff question the range of scores that planned underground asset renewal projects received, especially in projects of the same investment category.[201] OEB staff compare cable replacement projects at both ends of the scoring range and submit that some projects are more beneficial than others. OEB staff conclude that because project scores create a range, it does not support Alectra Utilities' claim that it has created a capital investment portfolio that yields the maximum value to customers. In OEB staff's submission, the fact that project scores differ significantly does not support Alectra Utilities' claim that the capital portfolio yields maximum value, and that projects may be deferred.

OEB staff misapprehend the function of the optimization or "scoring" system that Alectra Utilities employs in capital planning. The fact that some projects' scores are higher than others is not an indication of a deficiency but rather a reflection that Alectra Utilities applied a robust process to evaluate each case, based on project specific benefits and risk mitigation measures. Alectra Utilities applies an asset management practice to evaluate and score each project business case, based on multiple measures including cost, risk and benefits. Alectra Utilities designed each

[200] Exhibit 4, Tab 1, Schedule 1, p. 272.
[201] OEB Staff Submission, p. 28-29.

project based on a specific need to deliver on a defined outcome for the ultimate benefit of customers. Each project considers the potential benefits with regard for the number and type of customers impacted, the projected reliability impact, and the environmental risk.

Project scores must be evaluated within the context of the business case. OEB staff identified Project No. 151303 – Cable Replacement Project (Rymal Road, Mud Road, Upper Centennial, Upper Red Hill Valley) in Hamilton as the highest scoring cable replacement project. Project No. 151303 is a multi-year phased cable replacement proposed to start in 2024 and conclude in 2026 that improves the reliability of service for 2,690 residential and 335 commercial customers currently serviced on a feeder identified as a worst performing feeder at Alectra Utilities.[202] The high project score reflects the benefits projected for a large number of residential and commercial customers in the area. OEB staff identified Project No. 150255 – Cable Replacement Project at Cundles Road and Janine Street in Barrie as the lowest scoring cable replacement project.[203] This cable replacement project is driven by a need to increase the voltage rating of the cable to support voltage conversion in the general area; the project is projected to benefit 305 residential and two commercial customers. The lower number of customers for Project No. 150255 results in a proportionally lower score for the reliability benefit. Alectra Utilities submits that the asset management methodology of scoring of business cases is accurate and appropriate to compare and optimize capital project work.

Parties also make proposals to establish new performance measures for Alectra Utilities. AMPCO argues that, due to the level of proposed investment for underground cable in the DSP, the OEB should require that Alectra Utilities establish a performance measure for underground cable related to the underground cable failure rates pre- and post-remediation for specific projects.[204] Energy Probe submits that the choice of DSP underground renewal projects (replacement, cable injection) and proposed reliability benefits associated with underground renewal projects places ratepayers' outcomes at risk, should the proposed remedial approach not result in the desired outcomes.[205]

[202] Exhibit 4, Tab 1, Schedule 1, Appendix A10, p. 56
[203] OEB Staff Submission, p. 29.
[204] AMPCO Submission, p. 16.
[205] EP Submission, p. 13.

Alectra Utilities submits that the DSP contains nine DSP-specific performance measures that are incremental to the measures that Alectra Utilities already tracks and reports through the OEB's Scorecard process, for a total of 38 unique measures to be tracked by Alectra Utilities.[206] Two of the nine DSP-specific performance measures incorporate underground cable performance measures including:

- Asset Condition: Health Index (Cable): % of Underground Cable in Poor and Very Poor Health Index Condition; and
- Customer Hours of Interruption (CHI) due to Defective Equipment.

Alectra Utilities submits that the two DSP-specific measures applicable to underground cables provide a direct outlook on the progress of Alectra Utilities' underground renewal approach with an emphasis on customer value based on measures of Customer Hours of Interruption due to defective equipment.

(v) The Underground System Renewal Plans are Prudent and Appropriately-paced

Parties have submitted a range of positions on Alectra Utilities' underground system renewal investment prudency and pacing which are as follow:

- OEB staff argue that Alectra Utilities has not sufficiently justified increases to its cable renewal investments and submits that Alectra Utilities should be expected to manage within historical levels of cable renewal.[207] OEB staff also submit that Alectra Utilities should reduce its cable renewal investments to focus on areas of cable with past failures. OEB staff claims that Alectra Utilities did not appropriately pace the cable renewal investments and proposes a $127million reduction to the cable renewal budget over the 2020-2024 planning period.

[206] Exhibit 4, Tab 1, Schedule 1, s. 5.2.3.

[207] OEB Staff Submission, p. 33.

- AMPCO argues that the condition and reliability of underground cable is not deteriorating and the OEB should not approve $135.7million of incremental funding for underground cable.[208]

- SEC argues that Alectra Utilities should increase efforts on annual maintenance and operating efforts to address declining reliability rather than replacing assets.[209]

OEB staff submit that Alectra Utilities should be expected to manage within its historical levels of cable renewal. Alectra Utilities respectfully submits that OEB staff's conclusion contradicts the OEB's own policies that require outcome-based business and capital planning. OEB's Chapter 5 Filing Requirements clearly articulate that "Good distributor planning is essential pre-requisite to the performance-based rate-setting approaches established under the Handbook, and necessary to ensure that the four performance outcomes the OEB has established for electricity distributors, namely Customer Focus, Operational Effectiveness, Publish Policy Responsiveness and Financial Performance, are being achieved." As Alectra Utilities sets out in the pre-filed evidence,

> The DSP addresses each of the performance outcomes identified by the OEB's *Handbook for Utility Rate Applications*, with a focus on addressing the top priorities identified through engagement with the utility's customers. <u>The priorities of Alectra Utilities' customers are that the company should maintain overall reliability and mitigate the impacts of extreme weather on service reliability, while ensuring that distribution rates are reasonable</u>.[210]

OEB staff's proposal for Alectra Utilities to revert back to its historical level of underground renewal investment replacement rates fails to recognize the significant and increasing rate of underground cable failures impact on outages and deteriorating reliability and is inconsistent with the outcome-based approach to investment planning that underlies the DSP, as required by OEB policy.

Alectra Utilities engaged an independent engineering firm, Vanry and Associates ("Vanry"), to complete an assurance review of the DSP. Vanry found that the DSP "represents a well reasoned,

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[208] AMPCO Submission, p. 15.

[209] SEC Submission, Page 34

[210] Exhibit 2, Tab 1, Schedule 2, p. 2, lines 13-17 (emphasis added).

fact-based assessment of the needs of the system and that it reflects the concerns of the relevant stakeholders and the desires of customers."[211]

Vanry did raise two concerns in Alectra Utilities approach to underground cable renewal and deferral of a specific Distributed Energy Resource ("DER") pilot. Regarding underground cables, Vanry identified that Alectra Utilities' approach to underground cable renewal could have potential implications for the customers and Alectra:

> Alectra like many utilities in North America, is battling a chronic failure of Underground Residential Distribution ("URD") cable, referred to by Alectra in its DSP documentation as XLPE. Alectra, appropriately, is allocating a large percentage of its system investment to the proactive replacement and refurbishment of the failure-prone URD cable and associated assets. The analysis in the DSP, and our experience with other utilities suggests that at the proposed level of investment, which is significant, may not enable Alectra to stay ahead of the deterioration rates in its URD fleet. It is well understood across the North American distribution sector that reactive replacement work is more costly than proactive replacement work by anywhere from 2 to 6 times.[212]

Vanry also cautioned Alectra Utilities that,

> utilities that reduce proactive replacement as a means of reducing investment or rates, most often find themselves being pulled into a vicious cycle of having more of their planned replacement funding being consumed with responding to reactive replacements. This reduces the amount of planned replacements that can be undertaken, which in turn leads to more reactive spending. Once started, the vicious cycle is extremely difficult to exit.[213]

OEB staff's proposal that Alectra Utilities revert back to historical investment levels for underground system renewal would also prohibit Alectra Utilities from realizing a source of significant value that can only be realized in the near-term: cable rejuvenation through injection. Alectra Utilities proposed underground cable renewal plan includes introducing cable injection practices across Alectra Utilities to provide a lower-cost solution that can extend the life of XLPE cable by injecting a fluid into the core of the buried XLPE cable. The fluid combines with the existing insulation and increases the strength of the insulation and slows down the rate of further

[211] Exhibit 4, Tab 1, Schedule 1, Appendix G, p. 6.

[212] Ibid., p. 22.

[213] Ibid., p. 23.

degradation. At approximately one fifth of the cost of cable renewal, cable injection provides an economic and reliability benefit to customers, but implementation of the solution is required before the cable deteriorates, eliminating the opportunity for injection and leaving the only option of replacement. Alectra Utilities has incorporated plans to inject 1,509 km of underground cable over the DSP period at an investment of $96.3million. OEB staff's submission to revert back to historical investment levels for underground cable replacement eliminates the funding necessary to complete cable injection resulting in a need to replace the cable in the future at five times the cost.[214]

OEB staff further submits that Alectra Utilities should reduce its cable renewal investments to focus on areas of cable with past failures.[215] In fact, the underground cable replacement investments in the DSP target areas of the underground system that have experienced failures.[216] For larger areas with a history of cable failure and similar vintage of underground cable, Alectra Utilities has phased the replacement by neighbourhoods to more efficiently complete the cable replacement projects with minimal interruption to customers.

SEC speculates that Alectra Utilities could increase efforts on annual maintenance and operating efforts to address declining reliability rather than replacing assets.[217] This proposal is entirely unfounded on the record and, since there are no feasible maintenance practices for underground cable, it is impossible to implement.

(i) Discrete Projects

OEB staff argues that, if the M-factor is approved, the manner in which the discrete criterion is applied should be revised. More particularly, at p. 14 of its Submission, OEB staff argues that while the ACM Report uses the words 'discretionary or otherwise' and the MAADs Policy uses the words "normal and expected" capital investments, the criterion that projects proposed for incremental capital funding must be discrete projects and not part of typical annual capital programs continues to apply in both situations. Alectra Utilities' witnesses have testified that each

[214] Responses to G-Staff-10a, p. 1 and EP-1f, p. 3.
[215] OEB Staff Submission, p. 33.
[216] Undertaking J2.4 Attach 1 DSP Project Listing, Column N comments.
[217] SEC Submission, p. 34.

of the M-factor Projects is a discrete project on the basis that each of the 203 M-factor projects has been planned and will be executed individually, and each has a defined scope, defined schedule, defined cost and specific outcome that it is intended to achieve. The OEB should reject this aspect of OEB staff's submission.

(b) Reactive Capital

(i) Overview of Reactive Capital Submissions

OEB staff and AMPCO argue that Alectra Utilities forecast budget for Reactive Capital should be reduced to five-year historical average levels and further reductions should be considered if the OEB approves Alectra Utilities proposed system renewal investments.[218] BOMA, SEC, EP, MANA, VECC, DRC and PWU propose any adjustments to Alectra Utilities proposed Reactive Capital budgets for the 2020-2024 planning period. Alectra Utilities responds to the parties' submissions below.

(ii) Alectra Utilities appropriately budgeted Reactive Capital based on 2018 and 2019 expenditures.

OEB staff argue that, instead of basing the Reactive Capital budget on average 2018 and 2019 expenditures, Alectra Utilities should use a five-year average from 2015 to 2019. OEB staff's position is that using a five-year average reduces the inter-year variances and provides a more accurate forecast of Alectra Utilities reactive capital needs.[219] The overall impact of OEB staff's proposed approach is to decrease the Reactive Capital budget by $9.95million.[220]

The historical expenditures are not directly comparable with post-merger expenditures. Therefore, OEB staff's proposal is demonstrably *less* accurate than Alectra Utilities' proposed Reactive Capital budget. OEB staff implicitly base their proposal on the assumption that historical reactive capital expenditures in 2015 to 2017 are comparable to reactive capital expenditures in 2018 and 2019. However, as explained in Section 5.2.1 of the DSP:

> Information regarding capital expenditures for the 2015 and 2016 Historical Years is based on the capital plans of Alectra Utilities' individual predecessor

[218] OEB Staff Submission, p. 38; AMPCO Submission, p. 16.

[219] OEB Staff Submission, p. 39.

[220] AMPCO's brief proposal is similar but does not account for inflation. AMPCO Submission, p. 16.

> utilities, which approached capital spending in a manner specific to their individual needs. This document represents Alectra Utilities' first DSP and is a comprehensive plan that takes into account and balances system needs across its entire service territory. The 2015 and 2016 historical capital expenditure information has been prepared for purposes of meeting the Filing Requirements by mapping these historical expenditures for the individual predecessor companies to current activities where possible. As the 2015 and 2016 capital expenditure decisions were not made by Alectra Utilities but, rather, by separate corporate entities, that historical capital expenditure information does not provide an appropriate basis for comparison or from which reasonable conclusions can be drawn.[221] [emphasis added]

This issue of historical comparability is more relevant in the context of Reactive Capital, since the reactive budget is built from historical expenditure levels. As the predecessor utilities categorized different types of spending as reactive, the historical spending for those years is not comparable either between predecessor utilities or with Alectra Utilities' expenditures. Accordingly, the expenditures reported for those years would be a very poor basis on which to prepare a forward-looking budget. The issue of historical incomparability will fade as Alectra Utilities continues to operate, creating its own record of historic expenditures from which more meaningful comparisons can be drawn in future proceedings. Alectra Utilities evidence on the record identifies that the most recent two-year post-merger average provides the most accurate basis on which to budget for Reactive Capital needs over the 2020-2024 period.

Alectra Utilities' reactive expenditures in 2019 are consistent with its experience in 2017 and 2018, and higher than the level proposed by OEB staff. The utility's Second Quarter Capital Forecast for 2019 reflects a Reactive Capital expenditure of $18.6million[222] as a result higher capital replacement costs due to storm damage experienced in the first quarter of 2019. The updated forecast for 2019 of $18.6M matches closer to two-year average forecast of $18.8million used by Alectra Utilities than OEB staff and AMPCO's five-year average of $16.9million.

It is important to note that Reactive Capital budgeting is, by definition, not planned spending. Rather, it is spending that a utility must undertake to serve customers and otherwise meet the requirements of its license. Reactive Capital spending will be what the needs of customers and the system dictate. Accordingly, Alectra Utilities submits that it is appropriate to budget Reactive

[221] Exhibit 4, Tab 1, Schedule 1, p. 19.

[222] Response to G-Staff-104, p. 4.

Capital expenditures based on the utility's actual reactive expenditures, using the only years that are comparable to the DSP period, which are 2017 and 2018.

(iii) Underground cable renewal investments have an immaterial impact on Reactive Capital

OEB staff's proposed reduction to Alectra Utilities' Reactive Capital budget is based, in part, on the assumption that Alectra Utilities is not approved incremental Underground Cable Renewal capital.[223] OEB staff submit that, should Alectra Utilities receive the funding to complete the cable renewal as proposed in the DSP, additional Reactive Capital reductions should be made. OEB staff suggests that, should the OEB approve Alectra Utilities cable renewal investments, the OEB should reduce half of the Reactive Capital budget by a percentage equal to the percentage increase in approved cable renewal.[224] AMPCO similarly submits that further reduction of Reactive Capital should be further reduced if the OEB approves incremental capital funding for system renewal.[225]

The parties incorrectly assume that there is a connection between reactive capital expenditures and underground cable failures. There is no such connection. Due to the substantial amount of planning and coordination required to rehabilitate or replace underground cable, Alectra Utilities executes underground cable renewal through planned capital and not reactive capital.

As described in detail in Appendix A10 of the DSP, Alectra Utilities addresses underground cable failures in one of three ways: repairing cable faults, rehabilitating cable through injection, or replacing cable (either in sections or wholesale). Repairs are recorded as reactive operating and maintenance costs, not Reactive Capital expenditures. [226] In the event that repeated repairs are unable to restore the cable to dependable and reliable performance, Alectra Utilities will conduct an emergency replacement. Such replacements are funded through the deferral or cancellation of other planned work, not Reactive Capital.[227]

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[223] OEB Staff Submission, p. 38.

[224] OEB Staff Submission, p. 41.

[225] AMPCO Submission, p. 16.

[226] OEB staff actually references the fact that cable repair is not capital work on page 48 of their submissions. OEB staff observe that "Alectra Utilities spent $0.208MM in operating and maintenance costs related to the excavation and repair of the deteriorated cable" [emphasis added].

[227] The case study of the York and Hilda community, cited in the DSP, provides a clear example of this practice. From October 2017 to July 2018, Alectra Utilities attempted to repair the cable multiple times only to

OEB staff observe that, despite Alectra Utilities' proposed increases to cable renewal investment, reactive capital needs are not expected to decrease because an increasing number of cables are expected to reach end-of-life. OEB staff note that there has not been a significant increase in actual Reactive Capital spending over the historical period of 2015-2019, despite increasing age of Alectra Utilities' cable population in the same period.

In effect, Alectra Utilities agrees with OEB staff that increasing the pace of underground system renewal to match the rate of failures will decrease the need for emergency cable replacement. However, as demonstrated above, emergency cable replacement is not funded through reactive capital. Accordingly, Alectra Utilities submits that OEB staff and AMPCO's argument that reactive capital be further reduced as a result of increased effort on underground cable renewal should be dismissed.

(c) Customer Connections

OEB staff argue for a reduction to Alectra Utilities' proposed Customer Connection investments of $10million over the 2020-2024 planning period.[228] OEB staff's argument is based on the fact that Alectra Utilities' connection costs are projected to increase from $14.9M in 2020 to $18.1M in 2024, while the number of new subdivision connections is projected to decrease relative to historical levels. OEB staff conclude that decreasing rates of growth in Alectra Utilities service are reflective of decreases in intensification and redevelopment.[229]

In direct contrast to OEB staff's argument on Reactive Capital, in which they argue that the most recent two-year expenditures were not an accurate reflection of Alectra Utilities reactive capital costs, OEB staff now propose to apply the most recent two-year average of Customer Connections costs to derive projections for the 2020-2024 planning period.

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experience another failure a few days later. Alectra Utilities incurred $208K in operating and maintenance costs to investigate, excavate and repair cable failures using splices. Once Alectra Utilities determined that the cable was no longer a candidate for repair, Alectra Utilities incurred $3.8MM in emergency capital costs to replace the deteriorated cable. The emergency capital funding was provided through the cancellation and deferral of other planned work. See Exhibit 4, Tab 1, Schedule 1, p. 4-5.

[228] OEB Staff Submission, p. 34.

[229] OEB Staff Submission, p. 38.

OEB staff have taken a comparatively simplistic approach to review a highly complex area of distribution system planning. As set out in the DSP, Alectra Utilities works closely with the communities it serves, coordinating with various city planning groups, as well as with the individual developer proponents who are planning to build and redevelop properties in the utility's service area.[230] Alectra Utilities' forecast of these mandatory investments is based, to the greatest extent possible, on these specific known developments.

Decreasing rates of population growth in Peel Region, City of Hamilton and York Region over the period from 2021 to 2026 do not indicate a slower rate of urban intensification. To the contrary, Alectra Utilities anticipates that future development will incorporate a higher number of intensification developments which include higher-density housing in multi-use zones, which are more challenging and complicated to connect relative to more simplistic greenfield developments. Alectra Utilities submits that a decrease in growth rate is reflective of transition from greenfield growth to higher amounts of intensification and redevelopment, which require more planning and coordination with public transit initiatives.

In support of these conclusions, Alectra Utilities included breakdowns of the specific developments that have been identified for each of the utility's service areas, along with the status of those developments, comprising the largest single section of the Customer Connections appendix to the DSP.[231]

OEB staff also incorrectly conclude that a declining connections growth rate should coincide with declining expenditures. The nature of the work determines the cost, and a significant proportion of the connections work that Alectra Utilities forecasts for the DSP period is due to intensification and redevelopment, which is generally more expensive and complicated than greenfield development.[232] Alectra Utilities' evidence identifies that increases in connection costs associated with intensification plans are driven by considerations of increased efforts for:[233]

[230] Exhibit 4, Tab 1, Schedule 1, p. 5.
[231] Exhibit 4, Tab 1, Schedule 1, p. 6-18.
[232] Response to G-Staff-93
[233] Ibid.

- Installation of infrastructure at deeper depths to avoid conflicts;
- Increased coordination and planning with multiple utilities and agencies in congested and constrained spaces; and
- Increased number of assets installed subsurface to support zero-lot lines and walkable streetscapes.

The Province of Ontario's land use policies support the conclusion that much of the growth in Alectra Utilities' service territory will be in the nature of intensification. The Province of Ontario's 2017 "Places to Grow, Growth Plan for Greater Golden Horseshoe" is guided by the principle that it is preferable to "*prioritize intensification and higher densities to make sufficient use of land and infrastructure and support transit viability*" [emphasis added].[234] Based on the direction of the Provincial development plan endorsed by the *Places to Grow Act, 2005*, Alectra Utilities combined, planned and paced urban development growth together with major public transportation initiatives which include the Hamilton LRT, Hurontario-Main LRT, York Subway Extension and VivaNext York Region Transit.[235]

Finally, OEB staff's claim that intensification is not a new phenomenon and has been occurring over the past ten years and the conclusion that there is no indication that Alectra Utilities' situation with regards to urban intensification has changed contradicts evidence.[236] Alectra Utilities evidence clearly identifies the introduction of "Urban Growth Centres" that are planned and being constructed in coordination with major transit projects.[237] The growth centers are planned to be a catalyst for development and intensification within the city cores. Alectra Utilities submits that with the construction of major public transit infrastructure over the planning period of the DSP, it is evident that increased levels of intensification and redevelopment are planned.

[234] Exhibit 4, Tab 1, Schedule 1, Appendix A02, pp. 27, 28.
[235] Ibid.
[236] OEB Staff Submission, p. 36.
[237] Exhibit 4, Tab 1, Schedule 1, Appendix A02, p. 27.

(d) Fleet Investments

(i) Overview of Fleet Investment Submissions

OEB staff, AMPCO and VECC make submissions on the fleet investments set out in the DSP. Their submissions can be summarized as follows.

OEB staff argues for reductions in Alectra Utilities proposed fleet renewal investments to historical levels plus inflation. The impact of applying historical levels of expenditures results in a reduction of $17.4million of Alectra Utilities proposed fleet replacement budget.[238] OEB staff claim that business cases for fleet vehicles lack information relating to conditional deficiencies and suggest that age is the sole criteria for fleet replacement investments.[239] OEB staff submits that the age of specific vehicle replacements in the business cases is inconsistent with the replacement criteria proposed in the fleet management process.[240]

VECC raises concerns with the increase of fleet renewal investments relative to historical averages and with the inclusion of a 20% portion of fleet renewal investment in the M-factor project listing.[241] VECC submits that, if approved, incremental capital funding would incent Alectra Utilities to shift costs from OM&A to capital to alleviate the risk of increasing maintenance costs. VECC does not propose any adjustments to Alectra Utilities proposed fleet investment beyond denial of the incremental funding for M-factor projects, which include $12.7million of fleet replacement investments.

AMPCO makes a brief submission on Fleet investments, proposing that Alectra Utilities should reduce fleet investment to historic levels but, unlike OEB staff, AMPCO's proposal does not account for inflation, resulting in a proposed reduction of $18million to Alectra Utilities proposed fleet replacement budget.[242]

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[238] OEB Staff Submission, p. 45.
[239] Ibid., p. 44.
[240] Ibid.
[241] VECC Submission, p. 10.
[242] AMPCO Submission, p. 16.

Each of OEB staff, VECC, and AMPCO argue that Alectra Utilities should defer fleet investments until it has received its pending vehicle utilization study. Alectra Utilities responds to each of these issues below.

(ii) Fleet Investments are Based on Multiple Factors including Asset Condition

Contrary to OEB staff's interpretation, the vehicles proposed for replacement in the DSP have indeed been identified for replacement through the process outlined in the evidence, which considers condition and other factors beyond vehicle age.

As set out in the DSP, Alectra Utilities' fleet investment planning includes multiple factors beyond age. They include: vehicle operating conditions; high mileage; high engine hours; and age, to ensure safety to employees and the public, maintain system reliability, maintain acceptable response times to customers, ensure vehicle available and reliability.[243] Other factors considered include compliance with legal requirements, including the *Highway Traffic Act* and applicable health and safety standards as part of the assessment process. Additionally, vehicle condition is physically assessed by Alectra Utilities fleet operations and third-party providers before a final recommendation is made to replace the vehicle.[244]

Alectra Utilities fleet renewal expenditures from 2020 - 2024 were determined based on the suite of factors described above and in the evidence, and not only solely on vehicle age as OEB staff conclude. Alectra Utilities tracks fleet specific condition data including records of preventative maintenance work, mandatory annual/semi-annual and quarterly inspections (as per regulatory and industry standards) as well as fleet age, repair history and mileage. This information was utilized to develop the fleet replacement plans.[245] When preparing the DSP, Alectra Utilities was still in the progress of integrating its fleet information from the various legacy systems, which is why vehicle-specific condition does not appear in each fleet business case developed in CopperLeaf C55. The investments proposed do reflect those factors, even if they do not appear in each of CopperLeaf C55 business case**.**

[243] These drivers can be found with the DSP (Exhibit 4, Tab 1, Schedule 1) on Table A19-3 (fleet renewal and sustainment objectives and drivers) and Table A19-4 (vehicle renewal Assessment criteria) of Appendix A19.

[244] Ibid.

[245] Exhibit 4, Tab 1, Schedule 1, p. 151

(iii) Fleet Investments are not Biased toward Capital Solutions

Alectra Utilities has provided extensive evidence on the process it uses to assess when vehicle replacement is prudent. VECC has advanced no evidence in support of its theory that funding the necessary vehicle replacement will somehow bias the utility away from properly maintaining its vehicles. VECC's assertion runs counter to the evidence in the DSP, which sets out the robust process that Alectra Utilities has developed to assess the optimal timing for fleet vehicle replacements.[246] As the DSP explains,

> Alectra Utilities annually assesses its fleet based on a defined set of criteria designed to ensure that the cost to operate and maintain each vehicle is less than capital and operating costs of a replacement vehicle, and that Alectra Utilities complies with all statutory regulations.[247]

The evidence throughout Appendix A19 of the DSP substantiates that claim. As described above, the individual fleet investments are based on the utility's replacement criteria and fleet management practices.

(iv) The Utilization Study will Help Alectra Utilities Operate with a Fleet Budget that has <u>Already</u> Been Reduced by $14.3 Million

The parties' submissions on the pending vehicle utilization study do not account for the fact that Alectra Utilities has already reduced its proposed Fleet budget below the level dictated by the condition of the assets, age, and other replacement criteria. Alectra Utilities will use the utilization study to assess vehicles that may be under-utilized to determine if replacement can be avoided or deferred.

As outlined in Table 4 below, Alectra Utilities' fleet capital expenditures would be $63.1million over the DSP period, if it were to adhere to the vehicle renewal assessment criteria. However, Alectra Utilities reduced its proposed Fleet budget by $14.3million to $48.8million over the DSP period to minimize the impact to the ratepayers.[248]

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[246] Exhibit 4, Tab 1, Schedule 1, Appendix A19.

[247] Ibid., p. 1.

[248] Exhibit 4, Tab 1, Schedule 1, Appendix A19, p. 18.

Table 4 – Vehicle Replacement Criteria vs Proposed DSP Expenditures

Alectra Utilities Fleet Capital Expenditure ($MM)	2020	2021	2022	2023	2024	Total
Needs Determined Through Condition and Replacement Criteria	$12.8	$12.4	$12.8	$11.9	$13.2	$63.1
Proposed	$8.9	$9.5	$9.9	$10.3	$10.2	$48.8
Difference Between Needs and Proposed	**$3.9**	**$2.9**	**$2.9**	**$1.6**	**$3.0**	**$14.3**

This reduced Fleet capital budget already reflects ambitious assumptions regarding vehicle utilization. However, it is highly unlikely that the study will identify $14.3million of under-utilized vehicles, which is the amount of capital that Alectra Utilities will need to identify to live within the already-reduced Fleet budget proposed in the DSP.[249] It will be Alectra Utilities' responsibility to find further efficiencies that will be required to operate within the proposed budget.

In order to operate safely and effectively within this reduced Fleet capital budget, Alectra Utilities plans to replace only those vehicles that are currently in poor operational condition, pose safety concerns to employees or the public, vehicles that are not reliable and frequently unavailable due to unscheduled maintenance and vehicles that are at risk of not being in compliance with applicable regulations and standards.

Accordingly, OEB staff's argument that the required fleet capital expenditures should be reduced by an additional $17.4million over the DSP planning period would be unworkable. The reductions that OEB staff propose will have a significant impact to Alectra Utilities ability to operate and support its customers, execute capital projects, maintain system reliability, and ensure the safety of its employees and the public. Since Alectra Utilities cannot accept a strategy that elevates employee or public safety risks, project delivery and maintenance work will likely suffer from reduced Fleet investments.

[249] Ibid., p. 19.

4. OM&A Savings

(i) Base Rates Should not be Adjusted During a Rebasing Deferral Period

OEB staff argue that Alectra Utilities has not identified sufficient OM&A savings as a result of the capital investments in the DSP. OEB staff reviews areas where they believe that there may be OM&A savings, and proposes that, if the M-factor is approved, the OEB consider a separate treatment of the hypothetical OM&A savings resulting from M-factor projects.[250] OEB staff admits that any hypothetical savings could be difficult to track, but suggests that, if some offset is approved in this proceeding, Alectra Utilities could file a proposal for how to track those savings in its next rate application.[251]

Not only is OEB staff's proposal speculative but it is also inconsistent with Alectra Utilities' responses to interrogatories; it is inconsistent with both price-cap index rate-making and the OEB's Decision and Order approving the creation of Alectra Utilities.[252]

OEB staff's submissions disregard the evidence that Alectra Utilities provided on the issue of OM&A savings. OEB staff interrogatory G-Staff-56 asked Alectra Utilities to quantify the amount of OM&A savings that would result from capital spending funded by the M-factor. Alectra Utilities responded:

> As provided in Exhibit 4, Tab 1, Schedule 1, p. 374, the trade-offs between capital and O&M costs were considered within section 5.3.3.5, Impact of System Renewal on Maintenance, of the DSP. The year over year increases over the planning period are less than 2% reflecting only inflationary impacts. Overall, the expectation is that the capital investment impact on O&M costs will be relatively minimal. Investments in system renewal that are designed to replace functionally obsolete, deteriorated and end-of-life assets may contribute to a gradual and modest reduction in required maintenance.[253] [Emphasis added]

As referenced in the interrogatory response, the DSP identifies the trade-offs between capital and O&M costs across the entire capital program – not just the M-factor projects. Further, as explained in the interrogatory response, even taking all capital investments across the DSP, Alectra Utilities

[250] OEB Staff Submission, p. 50.

[251] Ibid.

[252] EB-2016-0025/EB-2016-0360, Decision and Order, Dated December 8, 2016.

[253] Response to G-Staff-56 (a) (ii).

forecasts that O&M costs will be essentially flat over the 2020-2024 period. OEB staff had the opportunity to challenge these forecasts during the technical conference and the oral hearing but chose not to do so. This is not an instance where the utility has left the record incomplete or refused to answer a question – Alectra Utilities provided the necessary information on the relationship between OM&A and capital costs. Accordingly, Alectra Utilities submits that it is speculative and inappropriate to challenge the utility's forecasts without giving it an opportunity respond on the record.

With one exception, OEB staff do not quantify OM&A savings, choosing instead to speculate that some savings may exist. The only investments for which OEB staff cite specific expected savings are three wireless communications projects. As OEB staff cite in their submissions, Alectra Utilities expects these projects to annual savings of $75,000, $80,000, and $570,000. OEB staff argue that these projects are sources of "material OM&A savings."[254] While Alectra Utilities believes that these projects are worthwhile, the total savings of all three combined – let alone each individually – is well below the company's materiality threshold.

More generally, the efficiencies that Alectra Utilities expects will result from planned capital investments are in the form of avoided incremental costs and efficiency, not savings that will be available for the utility or its shareholders. Alectra Utilities evidence that project businesses cases include three categories: avoided costs; efficiency savings; and reduction savings.[255] Avoided OM&A costs reflect avoided future increases in costs. Efficiency OM&A savings are reflected in investments that enable more efficient use of employees' time, enabling them to work on other tasks. OM&A reduction savings reflect elimination of tangible costs Alectra Utilities currently expenses. In the case of the WiMax investments, Alectra Utilities explained in the Oral Hearing[256] that the productivity benefits of the investment are related to efficiency and not as proposed by OEB staff, toward OM&A cost elimination:

> MR. WASIK: Yes. So, Mr. Shepherd, as Mr. Cananzi was explaining, one of our strategies that we've outlined in the DSP is to see what we can do with respect to focusing on the areas of need.

[254] OEB Staff Submission, p. 49.

[255] Response to SEC-1.

[256] Oral Hearing Transcript Volume 3, pp. 45, 46.

> So as we talked about a lot, we need to focus on underground assets. When we examined the current state of our stations we recognized that there is a different way we can manage it. And so by putting more sensors and putting oil containment controls we can mitigate the risks. By adding more ties and automation around the station we can minimize outages if the stations failed.
>
> But that infrastructure, the additional monitoring, requires more bandwidth in terms of the networks, and we are also seeing that trend across everything, is that we're adding more sensors on things.
>
> And the current data network that we use doesn't have the right security or the right bandwidth. So as part of normal evolution this is why we're looking at WiMax. So the savings, Mr. Shepherd, come from the fact that we can keep the station assets longer in-service than were typical.
>
> We then transferred those particular savings into the underground cable. But even after doing that it wasn't enough. We needed to have some additional funding.
>
> MR. SHEPHERD: Okay. So rather than a synergies benefit, it's a productivity benefit, and you are then using that productivity benefit to make your system better?
>
> MR. WASIK: Yes. That's the intent. That's what we're always trying to do.
>
> MR. SHEPHERD: Got you. All right.

OEB staff propose that the OEB establish some undefined rate-setting mechanism to address these hypothetical OM&A savings.[257] OEB staff's proposal is contrary to both MAADs Policy and price-cap index rate-making. A fundamental premise of price-cap index rate-making, or "IRM", is that costs are decoupled from rates during the rate period. There are limited exceptions to this principle, such as incremental funding for eligible investments through capital trackers, such as the ICM or, in this case, the M-factor. But the core "incentive" of IRM is that utilities are allowed to retain efficiencies they realize until rebasing, after which time customers retain the future benefit of those efficiencies.

In effect, OEB staff propose that the OEB should adjust Alectra Utilities' base rates during the rebasing deferral period. OEB staff do not attempt to address the fundamentally inconsistency of their proposal with the decoupling principle that lies at the core of IRM and the rebasing deferral

[257] OEB Staff Submission, p. 50.

period set out in the MAADs Policy. OEB staff acknowledges that their proposed base rate adjustment may be difficult to track, but they do not propose a mechanism to address that challenge, leaving it for a future application and a future OEB panel to resolve. Alectra Utilities submits that OEB staff's proposal in respect of hypothetical OM&A savings is not supported by the evidence, contrary to OEB policy, and should therefore be denied.

5. Other DSP Issues

(a) SEC's "Benchmarking" Should be Rejected

In its Submission, SEC purports to carry out a benchmarking exercise whereby it compares Alectra Utilities' to four particular distributors that it selected. Through its 'quasi-benchmarking' evidence, SEC provides several comparisons that are of questionable value and that are otherwise unknown to rate-making proceedings.[258] In support of a general argument that Alectra Utilities has a bias toward capital investment, SEC introduces a range of comparisons between the utility's net PP&E per customer and other Ontario LDCs (sometimes collectively, sometimes a small subset).

SEC is not an expert in benchmarking and did not file its purported benchmarking analysis in evidence. As such, parties including the Applicant have not had an opportunity to test that information, which SEC has improperly attempted to put on the record through its submissions. In addition, it is not possible for the OEB to draw meaningful conclusions from the comparisons that SEC makes. For instance, why is it appropriate to compare the cumulative average growth rate of Alectra Utilities against EnWin, Kitchener, Energy+, and PUC Distribution specifically? The only basis that SEC provides for this comparison is that these four utilities have "substantial PP&E" and have rebased in the last three years. SEC's comparisons are selective, untested and have been improperly introduced in argument. Accordingly, the OEB should give no weight to any of this information, including the comparisons or the conclusions that SEC attempts to draw from these comparisons.

(b) DRC's Proposed Reporting Requirements

In its Submission, DRC requests that the OEB require Alectra Utilities "to transparently track, monitor, and report on DER impacts on customer costs, operations, reliability, load, and

[258] SEC Submission, p. 18-21.

productivity".[259] While Alectra Utilities considers its planned DER investments to be important and values DRC's submissions in support of several of the planned DSP projects[260], in Alectra Utilities' view this request from DRC for the imposition of DER-related reporting requirements is beyond the scope of this rate setting proceeding. Such matters are better suited to determination in a broad generic proceeding, through which any such requirements could be established on an industry-wide basis. Alectra Utilities notes that the OEB's ongoing consultation on DERs (EB-2018-0288), in which both it and DRC are participants, may be a better forum for DRC's proposal. Alternatively, Alectra Utilities is aware of the ongoing work of the OEB's Advisory Committee on Innovation, which is carrying out a consultative process that may also provide an appropriate forum to develop any generic DER tracking requirements.

Moreover, the proposed tracking and reporting requirements are unnecessary because Alectra Utilities has a strong understanding of the impact that DERs are having on its distribution system, and on customers; the DSP includes an entire appendix dedicated to DER Integration.261 As indicated by the testimony cited in DRC's submissions, Alectra Utilities already plans to further quantify the impact of DERs based on the pilot projects proposed in its DSP.262

(c) Energy Probe's Proposed Reporting Requirements

In its Submission, Energy Probe proposes that the OEB should impose various reporting requirements on Alectra Utilities in connection with the DSP.[263] In particular, Energy Probe argues that information on the performance of the DSP and on the Underground Cable renewals in particular should be required at the end of each year. Energy Probe asks for annual performance data on aggregate DSP performance, projects completed, actual and budgeted costs, forecast and actual reliability improvement, in-service additions, CIVA balances, revenue requirement amounts and rate rider comparisons to all be provided to the OEB for each rate zone and placed on the public record, and that the OEB should hold annual written proceedings to review the results.

[259] DRC Submission, p. 15.
[260] DRC Submission, p. 14-15.
[261] Exhibit 4, Tab 1, Schedule 1, Appendix A16.
[262] DRC Submission, p. 8-9.
[263] EP Submission, p. 13.

In response, Alectra Utilities submits that the OEB should reject Energy Probe's proposal. The proposed CIVA enables tracking of all relevant investments, including the timing of in service additions and actual vs budgeted costs, by rate zone for the five-year DSP period. One of the benefits of the M-factor proposal is the regulatory efficiency that it would achieve, by avoiding the need for annual ICM applications. This benefit is acknowledged by OEB staff in its Submission.[264] Energy Probe's proposed reporting requirement, along with the proposed annual proceeding to review that reported information, would undermine this important benefit, create significant regulatory burden for the utility and the OEB, give rise to regulatory costs, and add no value for ratepayers relative to the proposed use of the CIVA. Moreover, the CIVA balances would be reported annually and publicly through the IRM.

H. CONCLUSION

Alectra Utilities' consolidated five-year DSP establishes, based on sound asset management and investment planning methodologies, the capital investment needs for its distribution system over the 2020 – 2024 period. Addressing those needs is in the best interests of Alectra Utilities' customers because if the DSP is not executed then customers will be adversely affected in terms of reliability, service and other imperatives. Because the capital needs established by the DSP are not fully funded by base distribution rates, the M-factor, together with the CIVA, is the regulatory mechanism best suited to fund Alectra Utilities' capital needs that are not funded in base rates.

Whether it is the M-factor or another mechanism that is implemented, the result must be rates that are just and reasonable – they must enable Alectra Utilities to efficiently and effectively provide customers with utility services and assure the utility of an opportunity to earn a fair return. With minor enhancements to the ICM, the M-factor provides sufficient funding and flexibility to enable Alectra Utilities to efficiently and effectively execute its five-year DSP for the benefit of its customers. It also provides customers with rate certainty and stability. Moreover, it achieves these important objectives without causing material bill impacts.

Through its Argument-in-Chief, the foregoing Reply Submissions, and in the evidence it has provided throughout the proceeding, Alectra Utilities has demonstrated that:

[264] OEB Staff Submission, p. 57.

- its understanding of the relevant policy framework is reasonable and correct;
- the M-factor is consistent with the MAADs policy;
- the M-factor is consistent with IRM and does not equate to CIR;
- the M-factor produces a fair result and does not create a bad precedent;
- the requested CIVA is appropriate; and
- Alectra Utilities has presented a DSP that was developed using a robust customer engagement process, comprehensive assessment of reliability needs and a disciplined approach to investment planning and which therefore provides a sound basis for the M-factor proposal.

While other parties have made submissions calling for the proposal to be rejected or modified for a variety of reasons as addressed above, those submissions are without merit and should be rejected. Alectra Utilities therefore submits that the OEB should approve Alectra Utilities' proposed M-factor, together with the proposed CIVA.

All of which is respectfully submitted this 29th day of November 2019.

ALECTRA UTILITIES CORPORATION
By its Counsel, Torys LLP

(Signed on Original)

Charles Keizer & Jonathan Myers