



**BY EMAIL and RESS**

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November 3, 2020  
Our File No. EB-2020-0002

Ontario Energy Board  
2300 Yonge Street  
27<sup>th</sup> Floor  
Toronto, Ontario  
M4P 1E4

**Attn: Christine Long, Registrar and Board Secretary**

Dear Ms. Long;

**Re: EB-2020-0002 – Alectra 2021 Rates – Confidentiality Claim**

We are counsel for the School Energy Coalition. We have received the letter from counsel for the Applicant dated October 27<sup>th</sup> seeking unusual conditions related to a confidentiality claim.

Alectra has filed two documents in response to Interrogatory CCC-2. SEC was anticipating that it would be relying on those documents. Alectra, however, seeks not only to have redactions treated as confidential, but to have those redactions hidden from the customer representatives.

There are rare occasions when the Board allows redaction of documents, and prevents parties signing the Declaration and Undertaking from seeing the redactions. For example, there can be redactions of the personal information of individual customers or employees. There can be redactions of the bank account numbers of the utility or others. There can be redactions of financial results of affiliates having no business relationship with the utility. In each case in which information is hidden from the other parties entirely, there is a clear reason for the exception.

In this case, the Applicant alleges that the information redacted is not relevant to the Application, and therefore should be hidden. The example given is the utility's approach to understanding and mitigating the impacts of the pandemic.

It is important, in our view, for the Board to be clear on what is being requested. The Applicant wants information relating to actions and analysis of the regulated utility to be provided to the Board, but hidden from the intervenors. As a result, the only submissions the Board will hear on whether that information is relevant is submissions from the Applicant. Alectra seeks an exception to the *audi alteram partem* rule requiring that the Board hear both sides, and it does so without giving any reason for doing so.

To the best of our knowledge, this is the first time a utility has sought such a ruling.

SEC finds this particularly concerning because the pandemic is one of the key issues in this proceeding. The Applicant is seeking additional funds for capital spending, at a time when it admits it has been unable to spend its full planned capital budget because of limitations from the pandemic. Their strategy for mitigating the impact, including a) steps taken to shift money to lesser priority capital projects because the money is newly "available", and b) forecasts of the potential impact of the pandemic on capital spending in 2021, among other things, is highly relevant to whether their proposed ICM projects represent truly incremental spending.

SEC therefore asks the Board to order that the two documents in question be provided, unredacted, to those intervenors who sign the Declaration and Undertaking.

All of which is respectfully submitted.

Yours very truly,  
**SHEPHERD RUBENSTEIN**  
**PROFESSIONAL CORPORATION**



Jay Shepherd

cc: Wayne McNally, SEC (email)  
Interested Parties