

November 5, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Alectra Utilities Corporation (“Alectra Utilities”)
Incentive Regulation Mechanism (“IRM”) Application for 2021 Electricity
Distribution Rates and Charges (OEB File No. EB-2020-0002)
Request for Confidential Treatment of Interrogatory Response**

We write in response to the November 3rd letter of the School Energy Coalition (“SEC”) requesting that the OEB order Alectra Utilities to provide, to those intervenors who sign a Declaration and Undertaking, unredacted copies of the two Confidential Reports filed in connection with Alectra Utilities’ response to Interrogatory CCC-2, which are the subject of its request for confidentiality dated October 27, 2020.

SEC’s primary objection to Alectra Utilities’ request is that it “seeks an exception to the *audi alteram partem* rule requiring that the Board hear both sides.” Not only is this assertion wrong, as discussed below, but SEC fails to explain, as required by s. 5.1.7(b) of the OEB’s *Practice Direction on Confidential Filings*, “why access to the nonconfidential version or description of the document (as applicable) is insufficient to enable the party to present its case.”

On the contrary, there is sufficient information on the public record to enable SEC to present its case on confidentiality. It is significant that Alectra Utilities did not redact all parts of the documents relating to issues that are irrelevant to the proceeding. Rather, it left on the public record those portions of the documents containing information that is public in nature, even if irrelevant to the proceeding. This ensures that intervenors have access to the maximum possible context surrounding the redactions. In particular, the detailed headings, sub-headings, and text surrounding the redactions provide clear indications of the topics and issues to which the redactions relate. Alectra Utilities has supplemented this context by including in its request for confidentiality a description of the redacted information, thus providing additional information that intervenors may use to inform their submissions.

Indeed, SEC has already used the description provided in Alectra Utilities’ request letter to mount an argument that the redacted information related to the COVID-19 pandemic is relevant and should be disclosed as part of the response to Interrogatory CCC-2. In addition to this being evidence that Alectra Utilities has disclosed sufficient information relating to the redacted

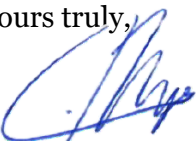
portions of the Confidential Reports to enable SEC to make submissions on the confidentiality request, SEC's argument is incorrect. Interrogatory CCC-2 requests "copies of all materials presented to the Alectra Board of Directors and senior executives related to this Application." This Application concerns Alectra Utilities' electricity distribution rates and charges for the 2021 rate year, as well as its requests for ICM funding for a non-discretionary CCRA true-up payment in the Brampton Rate Zone and for non-discretionary road authority projects in the Brampton and PowerStream Rate Zones. The Application does not concern the COVID-19 pandemic generally or the steps the utility has taken to understand and mitigate its impacts. Nor is it the case, as SEC asserts, that "the pandemic is one of the key issues in this proceeding." Although the OEB has required Alectra Utilities, like all other Ontario utilities, to establish a deferral account to track the impacts arising from the COVID-19 pandemic, that account is subject to the outcome of a separate OEB consultation process on the treatment of such accounts. It is also subject to a future request from Alectra Utilities – which has not been made in and is not at issue in this Application – for disposition of the balance of that account. Thus, questions regarding the relationship between Alectra Utilities' capital spending needs and any changes in spending because of COVID-19 are irrelevant to both Interrogatory CCC-2 and this Application generally, and are instead expected to be the subject of a future rate proceeding following the conclusion of the OEB's consultation on the COVID-19 emergency deferral account.

In any event, Alectra Utilities' filed response to Interrogatory CCC-2 is fully responsive. It includes "all materials presented to the Alectra Board of Directors and senior executives related to this Application," namely, a presentation to Alectra Utilities' Executive Committee concerning its 2021 Electricity Distribution Rate Application and the two Confidential Reports containing substantial information about the Application, all of which is unredacted. The Confidential Reports also contain unredacted information that exceeds the scope of the interrogatory request and this Application, including in respect of COVID-19 and other regulatory matters unrelated to this proceeding.

Finally, it is important to recognize that requiring Alectra Utilities to disclose the redacted information to those intervenors who sign a Declaration and Undertaking would prejudice the utility. The redacted information concerns Alectra Utilities' internal analysis, plans, strategic communications (including with third parties) and potential positions regarding regulatory issues that are currently before or expected to come before the OEB. Disclosing that information to intervenors in this Application could prevent Alectra Utilities from properly presenting its case and would unfairly prejudice Alectra Utilities' position in those proceedings.

For these reasons, Alectra Utilities asks that the OEB dismiss SEC's objection and permit the redacted information in the Confidential Reports to remain redacted on a permanent basis, and not require it to be disclosed to any party in the proceeding, including a person from whom the OEB has accepted a Declaration and Undertaking.

Yours truly,



For Charles Keizer

cc: Indy Butany-DeSouza, Alectra Utilities
 All Parties