



August 23, 2022

Nancy Marconi
Registrar
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Toronto ON
M4P 1E4

Dear Ms. Marconi,

**RE: EB-2022-0013 Alectra Utilities Corporation Incremental Capital Module
Application for 2023 Distribution Rates and Charges - CCMBC Argument**

Attached is the Argument of the Coalition of Concerned Manufacturers and Businesses of Canada (CCMBC) in the EB-2022-0013 Alectra Utilities Corporation Incremental Capital Module proceeding for 2023 Distribution Rates and Charges.

CCMBC believes that it has participated efficiently and responsibly in this proceeding and requests that it be allowed to recover all of its reasonably incurred costs.

Respectfully submitted on behalf of CCMBC,

Tom Ladanyi
TL Energy Regulatory Consultants Inc.

cc. Tyler Davids (OEB Staff)
Lawren Murray (OEB Staff)
Catherine Swift (CCMBC)
Natalie Yeates (Alectra Utilities)

EB-2022-0013

IN THE MATTER OF the *Ontario Energy 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, 2023.

Coalition of Concerned Manufacturers and Businesses of Canada

Argument Submissions

August 23, 2022

Alectra Utilities Corporation
Application for Incremental Capital Module funding effective January 1, 2023

Coalition of Concerned Manufacturers and Businesses of Canada

Argument Submissions

August 23, 2022

Executive Summary

Alectra Utilities filed an application with the Ontario Energy Board on May 16, 2022, Seeking approval for a rate rider for Incremental Capital Module (ICM) funding from ratepayers for underground cable renewal capital expenditures in the Enersource and PowerStream Rate Zones for 2023 and 2024. The expenditures are a program consisting of 28 projects over two years with a total cost of \$52.3 million. CCMBC is not opposed to Alectra renewing its underground cables. It is only opposed to its members being charged higher rates to subsidize the renewal.

CCMBC submits that the OEB should not approve ICM funding from ratepayers for these capital expenditures. Alectra has not demonstrated all the projects that it is funding on its own are of greater priority and must proceed while the projects for which it is seeking ICM funding are conditional on OEB funding approval. Alectra has not demonstrated the projects are discrete and material as required by the OEB. Alectra has not demonstrated that the projects are not minor expenditures in comparison to its annual budget. Alectra has not demonstrated that the projects are not just routine utility work. Alectra has not demonstrated that it has exhausted all other methods of funding the projects. Alectra has not demonstrated why it needs approvals for two years instead of the normal one year of ICM.

Request for ICM Funding

Alectra Utilities is requesting approval of ICM funding of \$25.4 million in 2023 and \$26.9 million in 2024, respectively, for the PowerStream and Enersource RZs, for a total expenditure of \$52.3 million¹ on 28 cable renewal projects over two years². The 28 projects range from \$0.6 million to \$2.6 million.³ For a typical residential customer in the Enersource RZ, the total monthly bill impact is \$0.13 in 2023 and \$0.13 in 2024 and for

¹ Exhibit 1, Tab 1, Schedule 4, Page 2

² Exhibit 3, Tab 1, Schedule 4, Page 7

³ Exhibit 3, Tab 1, Schedule 4, Page 8, Table 28

a typical residential customer in the PowerStream RZ, the total monthly bill impact is \$0.16 in 2023 and \$0.17 in 2024⁴.

This is an unusual application in that it is the only the second application for more than one year of ICM funding of capital expenditures that has ever been filed by an applicant since the OEB first allowed applications for ICM funding.

Project #	Project Name	2023	2024
151329	Cable Replacement – Raymerville Drive Area in Markham (M21)	\$1.5	\$1.6
151361	Cable Injection – Cairns Drive of Markham (M21)	\$1.7	\$1.9
151367	Cable Injection – McNaughton Road Area of Vaughan (V26)		\$1.9
151403	Cable Replacement - Montevideo & Battleford Area in Mississauga (Area 46)	\$1.4	
151407	Cable Replacement – Glen Erin & Burnhamthorpe of Mississauga (Area 25)	\$2.2	\$2.3
151431	Cable Injection – Glen Erin Dr & Bell Harbour Dr in Mississauga (Area 39)	\$0.9	
151432	Cable Injection – Edwards Boulevard Area in Mississauga (Area 43 & 51)		\$1.3
151435	Cable Injection – Derry Road & Ninth Line (Area 56)	\$1.0	\$1.1
151436	Cable Injection – Winston Churchill & The Collegeway (Area 58 & 59)	\$1.0	\$1.1
151456	Cable Injection – Sovereign Court Area in Vaughan (V50)		\$1.6
151459	Cable Injection – Creditstone Road Area in Vaughan (V24)		\$2.1
151461	Cable Injection - Jacob Keffer Parkway Area in Vaughan (V17)	\$1.6	
151517	Cable Injection - 8th Line & Highway 11 Area in Bradford (BR5)		\$1.3
151520	Cable Injection – Willow Farm Lane of Aurora (A09)	\$1.1	
151889	Cable Replacement – Tomken Trail in Mississauga (Area 36)		\$2.0
151895	Cable Replacement – Main Feeder Cable on Cantay Road (Area 44)	\$0.9	
151901	Cable Replacement – Hemus Square in Mississauga (Area 16)	\$0.7	
151902	Cable Replacement – Dixie Road & Winding Trail (Area 19)	\$0.6	
151903	Cable Replacement – South Millway Area in Mississauga (Area 25)		\$1.0
151912	Cable Replacement - Ashbridge Traffic Circle Area in Vaughan (V51)	\$2.6	
151913	Cable Replacement – Cochrane Drive & Scolberg in Markham (M44)	\$2.5	\$2.5
151914	Cable Replacement – Aviva Park Area of Vaughan (V36)	\$2.4	
151935	Cable Replacement - Larkin Ave Area of Markham (M15)		\$1.8
152373	Cable Replacement - St. Joan of Arc Area of Vaughan (V26)		\$1.6
152375	Cable Replacement – Hammond Drive Area in Aurora (A09)		\$1.3
152379	Cable Replacement – Batson Drive in Aurora (A10)	\$1.7	
152386	Cable Injection - Kersey Crescent Area in Richmond Hill (R23)	\$1.5	
152387	Cable Injection – Rainbridge Ave (V51)		\$0.6
	Total Proposed ICM Investment	\$25.3	\$27.0

Eligibility for ICM Funding

In its EB-2018-0016 decision of January 2019, the OEB explained overall eligibility for ICM Funding.⁵

⁴ Exhibit 1, Tab 1, Schedule 4, pages 9 and 10

⁵ EB-2018-0016, Decision and Order, Alectra Utilities Corporation, January 31, 2019, pages 4 and 5

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

*In order to qualify for ICM funding, a request must satisfy the eligibility criteria of **materiality, need and prudence**, as set out in section 4.1.5 of the ACM Report. Changes to the materiality threshold were made in the Supplemental Report.”*

Materiality Threshold

The EB-2014-0219 Report of the Board explained the concept of the Materiality Threshold.

The materiality threshold is in effect a capital expenditure threshold which serves to demonstrate the level of capital expenditures that a distributor should be able to manage with its current rates.⁶

The Threshold Value is determined by a formula⁷. The EB-2014-0219 Report of the Board explains how to use the materiality threshold.

“A capital budget will be deemed to be material, and as such reflect eligible projects, if it exceeds the Board-defined materiality threshold. Any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount (as defined in this ACM Report) and must clearly have a significant influence on the operation of the distributor; otherwise, they should be dealt with at rebasing. Minor expenditures in comparison to the overall capital budget should be considered ineligible for ACM or ICM treatment. A certain degree of project expenditure over and above the OEB-defined threshold calculation is expected to be absorbed within the total capital budget.”⁸

Therefore, the key to obtaining approval for ICM funding is for a utility to have a capital in-service forecast for the year for which it is seeking approval that exceeds the materiality threshold. In the EB-2020-0002 decision⁹ the OEB allowed Alectra Utilities to

⁶ EB-2014-0219 Report of the OEB, *New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014, section 4.1.5, page 17

⁷ *Ibid.*, section 6, page 19

⁸ *Ibid.*, section 4.1.5, page 17

⁹ EB-2020-0002 Decision, page 62; CCC-4

treat its Rate Zones as separate utilities for the purpose of calculating ICM Materiality Thresholds. Alectra must also demonstrate that each of its expenditures proposed for ICM funding is not a minor expenditure in comparison to the overall capital budget for each Rate Zone.

PowerStream Rate Zone

For the PowerStream RZ, Alectra has calculated the 2023 and 2024 materiality threshold amounts to be \$97.8 million and \$99.1 million respectively¹⁰. To get ICM funding, Alectra needs to prove to the OEB that its 2023 and 2024 in-service capital forecasts for the PowerStream RZ respectively exceed \$97.8 million and \$99.1 million.

According to Alectra the 2023 and 2024 capital budgets for the PowerStream RZ are \$120.1 million and \$119.0 million respectively¹¹. Based on that information Alectra claims that the Maximum Eligible Incremental Capital amounts for the PowerStream RZ are \$22.1 million for 2023 and \$19.9 million for 2024 obtained by subtracting the 2023 and 2024 Threshold Amounts of from the 2023 and 2024 Budget amounts¹².

Enersource Rate Zone

For the Enersource RZ, Alectra has calculated the 2023 and 2024 materiality threshold amounts to be \$52.2 million and \$52.7 million respectively¹³. To get ICM funding, Alectra needs to prove to the OEB that its 2023 and 2024 in-service capital forecasts for the Enersource RZ respectively exceed \$52.2 million and \$52.7 million.

According to Alectra the 2023 and 2024 capital budgets for the Enersource RZ are \$65.3 million and \$60.6 million respectively¹⁴. Based on that information Alectra claims that the Maximum Eligible Incremental Capital amounts for the Enersource RZ are \$13.2 million for 2023 and \$7.9 million for 2024 obtained by subtracting the 2023 and 2024 Threshold Amounts of from the 2023 and 2024 Budget amounts¹⁵.

CCMBC Submission

To get ICM funding for the onus is on Alectra to prove to the OEB that its 2023 and 2024 forecasts of in-service capital for the PowerStream RZ and the Enersource RZ, are both credible and reasonable and that the projects¹⁶ that are included in these

¹⁰ Exhibit 2, Tab 1, Schedule 1, page 6, Table 4

¹¹ *Ibid*, page 7, Table 5

¹² *Ibid* Table 6

¹³ Exhibit 2, Tab 1, Schedule 1, page 14, Table 11

¹⁴ *Ibid*, Table 12

¹⁵ *Ibid*, page 15, Table 13

¹⁶ SEC-2, Attachment 1, *Non-ICM Business Cases*

forecasts are of greater priority than the proposed ICM projects. CCMBC submits that Alectra has failed to do that.

In 2021, the last year for which actuals are available the 2021 actual capital expenditures by Alectra were \$261.9 million¹⁷ whereas the 2021 DSP forecast was \$280.2 million, a difference of about \$18.3 million. CCMBC submits that the Budget forecasts for 2023 and 2024 could therefore be reduced because Alectra demonstrated in 2021 that it could spend less than forecast without any significant impact on the operation of the PowerStream RZ and Enersource RZ.

To demonstrate its need for incremental funding Alectra needs to demonstrate that all the projects included in its \$262.4 million budget forecast for 2023 and \$266.6 million for 2024, totaling \$529.0 million, are of greater priority than the underground cable renewal expenditures of \$25.4 million for 2023 and \$26.9 million for 2024 totaling \$53.3 million for which it is seeking ICM funding. Alectra claims that cable renewal projects it selected for base funding are of higher priority than the cable renewal projects it selected for ICM funding based on its Value Framework analysis.¹⁸ However, it does not appear that Alectra compared cable renewal projects against other projects.

If that were not the case, Alectra could have accommodated the cable renewal expenditures within the \$529.0 million combined budget for the two years and sought ICM funding for some projects that are now included in the \$529.0 million, but Alectra chose not to do that.

Alectra could have also deferred some of the projects within the \$529.0 million forecast to a future year but did not do that because it claims that all the projects are so urgent that none could be deferred. When one looks at the list of projects that make up the \$529.0 million budget in-service capital forecast¹⁹, and particularly the General Plant projects²⁰, it is difficult to believe that all these projects are of higher priority than the underground cable renewal expenditures proposed for ICM funding.

Alectra claims to need ICM funding because it plans to spend all its available capital funds on other projects. CCMBC submits that Alectra could easily defer some of the projects to make funds available for the 28 projects for which it is seeking incremental funding from ratepayers.

Businesses operating in the competitive market, like CCMBC members, which faced an urgent need for funds would have attempted to borrow them. There is no evidence that Alectra attempted to do that.

The OEB pointed out that minor expenditures in comparison to the overall capital budget should be considered ineligible for ACM or ICM treatment. The expenditures on

¹⁷ Exhibit 3, Tab 1, Schedule 1, page 3, Table 18

¹⁸ SEC-9

¹⁹ CCMBC-10, Table 1 and CCMBC-11, Table 1

²⁰ Exhibit 4, Tab 1, Schedule 1, Tables 5, 6, 9 and 10

28 projects range from 0.2% to 0.9% of the overall capital budget as shown in the table below.²¹

Project #	Project Name	2023	% of 2023 Budget	2024	% of 2024 Budget
151329	Cable Replacement – Raymerville Drive Area in Markham (M21)	\$1.5	0.5%	\$1.6	0.5%
151361	Cable Injection – Cairns Drive of Markham (M21)	\$1.7	0.6%	\$1.9	0.6%
151367	Cable Injection – McNaughton Road Area of Vaughan (V26)			\$1.9	0.7%
151403	Cable Replacement - Montevideo & Battleford Area in Mississauga (Area 46)	\$1.4	0.5%		
151407	Cable Replacement – Glen Erin & Burnhamthorpe of Mississauga (Area 25)	\$2.2	0.8%	\$2.3	0.8%
151431	Cable Injection – Glen Erin Dr & Bell Harbour Dr in Mississauga (Area 39)	\$0.9	0.3%		
151432	Cable Injection – Edwards Boulevard Area in Mississauga (Area 43 & 51)			\$1.3	0.4%
151435	Cable Injection – Derry Road & Ninth Line (Area 56)	\$1.0	0.4%	\$1.1	0.4%
151436	Cable Injection – Winston Churchill & The Collegeway (Area 58 & 59)	\$1.0	0.4%	\$1.1	0.4%
151456	Cable Injection – Sovereign Court Area in Vaughan (V50)			\$1.6	0.6%
151459	Cable Injection – Creditstone Road Area in Vaughan (V24)			\$2.1	0.7%
151461	Cable Injection - Jacob Keffer Parkway Area in Vaughan (V17)	\$1.6	0.6%		
151517	Cable Injection - 8th Line & Highway 11 Area in Bradford (BR5)			\$1.3	0.4%
151520	Cable Injection – Willow Farm Lane of Aurora (A09)	\$1.1	0.4%		
151889	Cable Replacement – Tomken Trail in Mississauga (Area 36)			\$2.0	0.7%
151895	Cable Replacement – Main Feeder Cable on Cantay Road (Area 44)	\$0.9	0.3%		
151901	Cable Replacement – Hemus Square in Mississauga (Area 16)	\$0.7	0.2%		
151902	Cable Replacement – Dixie Road & Winding Trail (Area 19)	\$0.6	0.2%		
151903	Cable Replacement – South Millway Area in Mississauga (Area 25)			\$1.0	0.3%
151912	Cable Replacement - Ashbridge Traffic Circle Area in Vaughan (V51)	\$2.6	0.9%		
151913	Cable Replacement – Cochrane Drive & Scolberg in Markham (M44)	\$2.5	0.9%	\$2.5	0.9%
151914	Cable Replacement – Aviva Park Area of Vaughan (V36)	\$2.4	0.8%		
151935	Cable Replacement - Larkin Ave Area of Markham (M15)			\$1.8	0.6%
152373	Cable Replacement - St. Joan of Arc Area of Vaughan (V26)			\$1.6	0.5%
152375	Cable Replacement – Hammond Drive Area in Aurora (A09)			\$1.3	0.4%
152379	Cable Replacement – Batson Drive in Aurora (A10)	\$1.7	0.6%		
152386	Cable Injection - Kersey Crescent Area in Richmond Hill (R23)	\$1.5	0.5%		
152387	Cable Injection – Rainbridge Ave (V51)			\$0.6	0.2%
	Total Proposed ICM Investment	\$25.3	8.8%	\$27.0	9.2%

CCMBC believes that projects that are less than 1% of the overall budget are minor projects.

The Means Test

The OEB requires that a distributor seeking funding prove that it actually needs it.

“If the regulated return exceeds 300 basis points above the deemed return on equity embedded in the distributor’s rates, the funding for any incremental capital project will not be allowed.”²²

²¹ CCMBC-6a

²² EB-2014-0219 Report of the OEB, *New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014, section 4.1.4, page 15

According to the evidence the 2021 regulated return of Alectra did not exceed 300 basis points above the Board-approved ROE. The 2020 actual ROE was calculated to be 6.18%, which was 277 bps below the 2021 OEB-approved ROE of 8.95%.²³

CCMBC Submission

The purpose of the Means Test is to show that applicant does not have the means to fund its entire capital program from its earnings and needs additional funds from ratepayers. The ROE calculation is designed to prove that. CCMBC accepts that Alectra's earnings were lower than the OEB approved return. Alectra's equity returns in 2020 and 2021 were 4.8% and 6.8%, far below the OEB approved rate of 8.95%²⁴. However, CCMBC notes that when Enersource and PowerStream merged in 2016, ratepayers were promised efficiencies and savings in both Capital and OM&A. Low earnings are evidence that Alectra has not managed to find these promised efficiencies and savings in five years. This evidence of poor management that would not be tolerated in other businesses. CCMBC believes that if Alectra deferred some of its other capital projects²⁵, or found more efficient way of managing them, it would have the means to fund its capital program and would not need any additional funds from ratepayers.

Discrete Project Criteria

The OEB requires that ICM funding requests must be based on discrete, material projects.

"Amounts must be based on discrete projects and should be directly related to the claimed driver."²⁶

In its decision of December 2020 on Alectra's EB-2020-0002 application the OEB explained the availability of ICM funding for projects.

"The ICM is available for discretionary or non-discretionary projects and is not limited to extraordinary or unanticipated investments. However, ICM funding is not available for typical annual capital programs, nor is it available for projects that do not have a significant influence on the operations of the distributor."²⁷

²³ Exhibit 2, Tab 1, Schedule 1, page 16

²⁴ CCC-1(3)

²⁵ Exhibit 4, Tab 1, Schedule 1, Tables 5, 6, 9 and 10

²⁶ EB-2014-0219 Report of the OEB, *New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014, section 4.1.5, page 17

²⁷ EB-202-0002 Decision and Rate Order, Alectra Utilities Corporation, December 17, 2020, page 53

CCMBC Submission

The onus is on Alectra to prove to the OEB that its ICM funding requests are for discrete, material projects. CCMBC submits that Alectra has not provided adequate proof of that capital expenditures proposed for ICM funding are discrete material projects. In fact, the 28 projects are small projects that are part of a program.

Evidence shows ²⁸ that Alectra had been working on underground cable renewal since 2020 in its Brampton, Enersource, Guelph, Horizon, and PowerStream Rate Zones since 2020. Cable renewal is a typical annual program for Alectra.

Each of projects is small and by itself does not have a significant impact on the operations of the distributor.

Incremental Revenue

The OEB Filing Requirements²⁹ state that the incremental revenue is relevant. The Filing Requirements specify that a distributor provide evidence regarding revenue generated by a proposed ICM project.

“Evidence that the incremental revenue requested will not be recovered through other means (e.g., it is not, in full or in part, included in base rates or being funded by the expansion of service to include new customers and other load growth).”

Calculation of each incremental project’s revenue requirements that will be offset by revenue generated through other means (e.g., customer contributions in aid of construction).”

CCMBC Submission

ICM approval is not only based on simple application of the threshold formula. It also depends on other considerations such as incremental revenue. Alectra has projects that generate incremental revenue but has decided to fund those with base rates, and selected projects for ICM funding that do not generate incremental revenue.³⁰

²⁸ Staff 20, Att.2

²⁹ *Filing Requirements for Electricity Distribution Rate Applications* - 2020 Edition for 2021 Rate Applications - Chapter 3 *Incentive Rate-Setting Applications* May 14, 2020, pages 27 and 28

³⁰ CCMBC-10, Table 1

Relaxed Requirements for Years 6 to 10 of Deferred Rebasing

On February 2022, the OEB relaxed the eligibility requirements for ICM funding for electricity distributors in years six to ten of the extended rebasing period making it easier for the distributors to obtain additional ICM funding from ratepayers.³¹

“Specifically, the OEB is providing additional flexibility for these electricity distributors to apply for incremental capital funding for an annual capital program during the extended rebasing period (i.e., years six to ten of their deferral period) if they can demonstrate the following:

- An urgent need for such additional funding that is based on new information that has arisen since the utility’s most recent rebasing application related to the management of risk associated with asset condition, reliability and quality of service and public safety*
- History of good utility practice in capital planning, capital program management and asset maintenance*
- How this ICM investment addresses customer needs and preferences and delivers benefits to customers*
- Exhaustion of other available options to manage its costs within the envelope provided by the existing price cap or another applicable formula.”*

CCMBC Submission

CCMBC is concerned that Alectra lobbied the Government to have changes made to the ICM criteria which resulted in the OEB issuing the February 10, 2022, letter. The timing of the letter and of the application appears to indicate that Alectra expected the letter to be issued when it was preparing its application and evidence. CCMBC tried to obtain information from Alectra regarding these concerns in an interrogatory³².

“Did Alectra make any submissions or any requests or proposals to the OEB and/or to the Ministry of Energy in 2020, 2021 or 2022, asking that the OEB change its ICM policy? If the answer is yes, please file copies of all communications between Alectra and the OEB and/or the Ministry of Energy regarding ICM policy. If the requests were made verbally, please file a list of dates of the meetings, including virtual meetings, and names of the persons who were present at the meetings.”

In its reply Alectra declined to respond based on relevance.

³¹ OEB February 10, 2022, Letter, page 1

³² CCMBC-2c

“Alectra Utilities respectfully declines to respond on the basis of relevance. The matter at issue before the OEB is the application and Alectra Utilities’ ICM proposal filed in this proceeding. The establishment of the OEB’s policies or any consideration of matters by entities external to the OEB are not at issue before the OEB for purposes of it considering and concluding on 10 Alectra Utilities’ application.”

CCMBC disagrees. CCMBC believes that information regarding lobbying by Alectra prior to filing to have ICM eligibility rules changed to enhance the prospect of approval of the application is highly relevant as it raises questions of transparency and fairness.

The new relaxed eligibility requirements for ICM funding allow approval of groupings of many small projects in a program to qualify for ICM funding for years 6 to 10 for distributors during deferred rebasing which is not allowed for years 1 to 5. This change significantly constrains the ability of Commissioners to deny ICM funding applications for years 6 to 10.

Alectra claims that the OEB’s February 2022 letter allows it to file an application for a capital program consisting of many small projects.³³ The letter allows distributors in years 6 to 10 of the extended rebasing period following amalgamation to apply for ICM funding for a capital expenditure program.

The merger of PowerStream and Enersource creating Alectra Utilities was approved by the OEB on December 8, 2016.³⁴ Therefore, on December 9, 2022, Alectra will be in year 6 of 10 following the merger, so it is eligible to apply for ICM funding for a capital program consisting of 28 small cable renewal projects that it plans to do in 2023 and 2024.

The conditions set out by the OEB in the February 10, 2022, letter do not seem challenging for Alectra to meet.

- *An urgent need for such additional funding that is based on new information that has arisen since the utility’s most recent rebasing application related to the management of risk associated with asset condition, reliability and quality of service and public safety.*

Most recent rebasing proceedings of PowerStream and Enersource were prior to their amalgamation in 2016. Distributors were aware of potential deterioration of underground cables since underground cables were first placed in service. The only new information is the extent of the deterioration which would be the result of a survey of cable conditions. Having a survey since 2016 is all that was required to meet this condition.

- *History of good utility practice in capital planning, capital program management and asset maintenance.*

³³ CCMBC-2a

³⁴ EB-2016-025 and EB-2016-0360, Decision and Order, December 8, 2016

There is no definition of what is “good utility practice” nor any objective measure of it. Any distributor can claim that it is following “good utility practice”. CCMBC notes that a utility that was following good utility practice would not suddenly be facing a large backlog of cable renewal and replacement projects. Alectra’s evidence of the large backlog demonstrates that it does not have a history of good utility practice.

- *How this ICM investment addresses customer needs and preferences and delivers benefits to customers.*

This can easily be shown by a professionally designed customer survey as Alectra has done.

- *Exhaustion of other available options to manage its costs within the envelope provided by the existing price cap or another applicable formula*

Alectra filed evidence on how it postponed some of the cable renewal projects to show how it tried to manage available options. It is not clear whether this is sufficient evidence to satisfy the new relaxed requirements.

CCMBC believes that a distributor would decide to fund its highest priority projects with its own base funds to ensure that they proceed and seek approval from the OEB for ICM funding of lower priority projects because of uncertainty of the OEB decision. None of the evidence filed by Alectra shows that projects that it is funding by itself through base rates are of greater priority than the projects proposed for ICM funding by ratepayers.

ICM Funding for Two Years of Projects

Alectra Utilities is seeking approval for ICM funding for 2023 and 2024 underground cable renewal capital expenditures for the Enersource RZ the PowerStream RZ.³⁵ This is an unusual application in that it is the only the second application for more than one year of ICM funding of capital expenditures that has ever been filed by an applicant since the OEB first allowed applications for ICM funding. The previous application, EB-2012-0064, was filed about 10 years ago by Toronto Hydro. Alectra claims that it has filed a two-year application in response to the OEB suggestion in its EB-2019-0018 decision³⁶.

CCMBC Submission

Since Alectra is relying on the EB-2019-0018 Decision to justify its application for funding for two years of ICM projects, it would be helpful to look at that decision. The following is a quote from that decision.³⁷

³⁵ Exhibit 1, Tab1, Schedule 4, page 7, Tables 1 and 2

³⁶ Exhibit 3, Tab 1, Schedule 1, pages 1 and 2

³⁷ EB-2019-0018, Partial Decision and Order, January 30, 2020, page 28

“If Alectra Utilities wishes to pursue its request for incremental capital funding beyond what is in its current base rates, the OEB suggests that three appropriate options may be considered:

- 1. File a cost-based application for rates effective in 2021 proposing updated capital requirements (cost of service or Custom IR), in which case the rebasing deferral period would be terminated.*
- 2. Amend the current application to request incremental capital funding in 2020 for projects that meet the ICM criteria. In doing so, Alectra Utilities must provide sufficient evidence to show how the projects meet the ICM criteria. This information cannot be discerned from the current application as Alectra Utilities has not identified projects that meet the established ICM criteria. Alectra Utilities has stated that ICMs are only available on an annual basis. The OEB has previously approved a multi-year ICM, and there is no explicit prohibition in the Funding of Capital policy. Alectra Utilities may wish to consider a multi-year ICM that meets the ICM criteria if it seeks further ICM funding.*
- 3. Do not file an amendment to the application for 2020. The OEB previously approved rates for 2020 on an interim basis by applying the current Alectra Utilities’ IRM escalator for each of its RZs. These rates can be made final upon request. The next application would then be for 2021 rates, in which Alectra Utilities would be eligible to request incremental capital funding through an ICM.”*

That decision refers to EB-2012-0014³⁸, the only previous case where the OEB had approved an ICM of more than two years. In that case Toronto Hydro (referred to as Toronto Hydro Electric Systems Limited or THESL) had requested an ICM that was for three years to cover the cost of the three years of construction of the Bremner (now Copeland) Station. In its approval the OEB explained its reasons why it was approving a three-year ICM.

Background

THESL applied for an incremental capital module for all three of the years that it would be under the IRM framework, that is, 2012, 2013 and 2014. The Board’s Filing Requirements for Incentive Regulation Mechanism Rate Applications anticipates filing on an annual, not multi-year, basis. THESL submitted that its application for annual IRM rate changes and ICM rate adders reflecting capital spent in each successive year is appropriate. THESL noted that it has already proposed and the Board accepted that the 2014 ICM proposed capital spending and resulting rate adders be addressed in a separate phase of the current hearing.

³⁸ EB-2012-0064, Partial Decision and Order, April 2, 2013, page 8

Board Findings

*The Board notes that the 2014 component of this application, with the exception of the Bremner project, has been moved to a separate phase. Given the timing of THESL's application update in October 2012, considering both 2012 and 2013 at the same time is the only practical solution. The size and multi-year construction schedule of the Bremner project is another factor that makes it reasonable to consider the entirety of the projects at this time. **However, the Board expects that future IRM filings will only be for one year, unless there are appropriate circumstances that justify a multi-year approach to IRM. (Emphasis added by CCMBC).***"

The OEB explained in its Toronto Hydro decision that future filings will only be for one year, unless there are appropriate circumstances that justify a multi-year approach. Toronto Hydro was building Bremner (now Copeland) Station, a large transformer station, which was a single discrete project stretching over three years.

The purpose of ICM funding is to assist utilities with large capital expenditures that are different from their normal work. Alectra is seeking funding for a group of small cable renewal projects over a two-year period. Cable renewal is a normal and routine work of electrical distributors. There is nothing that indicates that this work is different than what Alectra has been doing in the past and continues to do each year.³⁹ The only difference is that there is more of it because Alectra has accelerated the pace of the work. In 2023 and 2024 Alectra is funding many similar projects with its base rates.⁴⁰

The 28 projects are not interdependent. Indeed, each project can be independently started and completed without affecting other projects. CCMBC submits that Alectra has not demonstrated appropriate circumstances to justify its need for a two-year ICM. The OEB should only consider one year of projects for ICM funding.

Conclusion

CCMBC members operate in a competitive market, and many are unable to increase their prices in response to inflationary pressures nor are they able to have their customers to pay them a subsidy. CCMBC believes that it is unfair that its members should be forced to subsidise Alectra.

The rates for Alectra's PowerStream and Enersource Rate Zones are determined by the OEB's Incentive Regulation Method Price Cap Mechanism which allows Alectra to increase its rates each year in response to inflation adjusted for productivity. This method of setting electricity rates is designed to emulate the competitive market. Incremental Capital Module or ICM was designed by the OEB to allow distributors to seek subsidy from ratepayers to fund certain projects that distributors could not fund

³⁹ CCMBC-1b

⁴⁰ CCMBC-1c

through their normal operations. Alectra has not demonstrated that it has exhausted all other methods of funding the projects.

The OEB requires that an application for ICM funding must be for a single project and not for a grouping of projects. Alectra's application consists of 28 discrete projects. In previous years, such an application would have been turned down. As of February 10, 2022, such groupings of projects into a program are eligible for ICM funding under certain circumstances. CCMBC submits that creating a program of a group of small projects to not make them eligible for funding does mean that the projects should be approved.

Alectra has not demonstrated the projects are discrete and material as required by the OEB. It has not demonstrated that the projects are not minor expenditures in comparison to its annual budget and are not just routine utility work. Alectra has not demonstrated why it needs approvals for two years instead of the normal one year of ICM.

Alectra claims to need ICM funding because it plans to spend all its available capital funds generated by base rates on other projects. CCMBC submits that Alectra could defer some of the projects to make base funds available for the 28 projects for which it is seeking incremental funding from ratepayers. Alectra has not demonstrated all the projects that it is funding on its own with base rates are of greater priority and must proceed while the projects for which it is seeking ICM funding are conditional on OEB funding approval.

It seems to CCMBC that it is unfair to ratepayers if a distributor is allowed to retain all incremental savings in OM&A costs during the deferred rebasing period while it gets ICM funding from ratepayers for virtually all incremental capital cost increases. If the OEB approves Alectra's ICM request it will remove the incentive for Alectra and other distributors for capital project productivity.

For all the above reasons, CCMBC submits that the OEB should not approve ICM funding by ratepayers for Alectra's 28 projects.