

August 26, 2022

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

Dear Ms Marconi:

**EB-2022-0013 – Alectra Utilities Corporation – 2023/2024 ICM – Final Submissions**

Please find, attached, the Final Submissions of the Consumers Council of Canada pursuant to the above-referenced proceeding. We apologize for the late filing of these submissions.

Please feel free to contact me if you have questions.

Yours truly,

**Julie E. Girvan**

Julie E. Girvan

CC: All parties

**FINAL SUBMISSIONS OF THE CONSUMERS COUNCIL OF CANADA  
RE: EB-2022-0013**

**ALECTRA UTILITIES CORPORATION – ICM APPLICATION**

**Introduction:**

On May 16, 2022, Alectra Utilities Corporation filed an application with the Ontario Energy Board (OEB) seeking approval for Incremental Capital Module (ICM) funding for its PowerStream and Enersource Rate Zones through distribution rate riders effective January 1, 2023. Alectra is requesting approval of ICM funding of \$25.4 million in 2023 and \$26.9 million in 2024 respectively, for the two rate zones for a total investment of \$52.5 million<sup>1</sup>. The request relates to 28 cable injection and cable replacement projects. The incremental revenue requirement Alectra is seeking to recover is \$3.8 million<sup>2</sup>.

These are the submissions of the Consumers Council of Canada (Council) regarding Alectra's ICM request.

**Background:**

In 2016 Enersource Hydro Mississauga Inc., Horizon Utilities Corporation and PowerStream Inc. filed an application with the OEB seeking approval to amalgamate and to purchase Hydro One Brampton Networks Inc. On December 8, 2016 OEB approval was granted and Alectra was formed. Alectra sought approval for a 10-year deferred rebasing period. During that time the benefits realized by Alectra through efficiencies and productivity initiatives would flow to the utility's shareholders. The OEB approved Alectra's request for a 10-year rebasing deferral period. In March 2018 the OEB approved the amalgamation of Alectra with Guelph Hydro Electric System Inc.

Given the OEB's rate-setting policies Alectra has the ICM mechanism available to it. That is clear. The OEB assesses ICM applications on the basis of materiality, need and prudence. Since the amalgamations were approved Alectra has filed several ICM applications. These include applications for 2018 rates and 2019 and 2021 rates<sup>3</sup>. In addition, Alectra filed an application for an "M-Factor" which was seeking approval of 203 capital projects for a total capital spending of \$265 million. The OEB has approved some ICM funding for 2018, 2019 and 2021 rates. The majority of the projects approved relate to road widening transit projects and true-up payments to Hydro One Networks Inc. arising from transformer station agreements.<sup>4</sup> These are mandatory projects with external drivers outside control of the utility. The OEB rejected the M-Factor approach primarily on the basis that a multi-year approach was inconsistent with the

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<sup>1</sup> Exhibit 1/T1/S4/p. 7

<sup>2</sup> Exhibit 1/T1/S4/ pp. 10 and 17

<sup>3</sup> EB-2017-0024, EB-2018-0016 and EB-2020-0002

<sup>4</sup> VEC-1

OEB's rate-making policies and the MADDs policy. The OEB concluded that the M-Factor proposal would not produce just and reasonable rates.<sup>5</sup>

As a result of the OEB's 2020 Decision Alectra reduced its planned capital expenditures over the 2020-2024 period (as set out in its Distribution System Plan). It undertook a comprehensive review of its capital investment plan to identify reduction and deferral in order to align the level of investment with the funding available in rates. This led to the deferral of investments in underground system renewal<sup>6</sup>. In both 2021 and 2022 Alectra significantly underspent on capital for cable injection and cable replacement as compared to its DSP<sup>7</sup>.

Alectra is now saying that the current level of underground cable renewal investments is insufficient to maintain the reliability of the distribution system in many communities.<sup>8</sup>

Alectra has identified 78 required cable injection and replacement projects. Of the 78, 52 have been deemed "high priority". Alectra's request is to undertake 32 in the PowerStream rate zone and 20 in the Enersource rate zone. 24 of the proposed projects are to be funded through base rates. It is not at all clear how Alectra determines what is funded through base rates and what is the subject on its two-year ICM Application. Cable replacement and injection projects are typically part of Alectra's ongoing capital programs.

In its Decision regarding Alectra's request for ICM relief for rates effective January 1, 2019 the OEB stated:

*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, as well as for capital projects not included in the distributor's previously filed Distribution System Plan. It is not limited to extraordinary or unanticipated investments.(emphasis added)<sup>9</sup>.*

The Council notes that there was only one instance where the OEB went outside of its established ICM policy and approved a multi-year approach. This was regarding a Transmission Station for Toronto Hydro-Electric System Limited. That project was a large project (not a number of small projects) that would take many years to complete.

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<sup>5</sup> EB-2019-0018, Partial Decision and Order, January 30, 2020, p. 21

<sup>6</sup> Exhibit 1/T1/S4/p. 3

<sup>7</sup> CCC-1

<sup>8</sup> Exhibit 1/T1/S4/p. 2

<sup>9</sup> EB-2018-0016 Decision and Order, dated January 31, 2019, pp. 4-5

On February 10, 2022 the OEB released a letter setting out an update to its ICM policy for electricity distributors during extended rebasing deferral periods arising from utility consolidations. Among the requirements set out by the OEB in that letter was that utilities will be granted ICM relief if they can demonstrate, “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.” In addition, utilities are required to demonstrate they exhausted other available options to manage its costs within the envelope provided by the exiting price cap or another applicable formula.<sup>10</sup>

### **Submissions:**

The Council does not support Alectra’s ICM request for a number of reasons:

- Alectra chose a 10-year deferred rebasing period in which it is permitted to keep the savings generated through consolidation, yet it continues to come back to the OEB for more money to fund what are essentially typical annual capital programs. It tried to seek recovery to fund its entire DSP through the M-factor which was rejected by the OEB. Alectra is now back before the OEB seeking further funding over two years for some of the same projects that were the subject of the M-factor proposal. The OEB in its Decision stated, “Given the length of the deferral period chosen by the utility, Alectra Utilities should consider the option of placing a stronger focus on executing planned capital work in a more efficient way in order to complete its DSP with less capital funding.”<sup>11</sup> It is clear that Alectra has not done that. They simply deferred projects that were the subject of a previous application and are now bringing those back for incremental funding;
- In its February letter the OEB pointed to the need to demonstrate for utilities to demonstrate they have exhausted available options to manage its costs within the envelope provided by the price cap. Alectra has not demonstrated this. In fact, following the M-factor Decision, Alectra deferred investment in underground system renewal. In addition, it increased spending in the General Plant category, primarily to IT investments<sup>12</sup>. If those IT investments had not been made, funds would have been available to support underground renewal. There is no evidence that those IT investments should have been prioritized over what Alectra is now claiming to be urgent investments in underground renewal;
- Underground renewal investments are what should be considered part of a typical annual capital program. These types of investments under the OEB’s policies should not qualify for ICM treatment. Alectra has been granted ICM funding in the past, but those

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<sup>10</sup>OEB Letter dated February 10, 2022 Re: Incremental Capital Modules During Extended Deferred Rebasing Periods

<sup>11</sup> EB-2019-0018, Partial Decision and Order dated January 20, 2020, p. 24

<sup>12</sup> Exhibit B/T3/p. 8

projects were primarily related to road widening/system access initiatives or payments to Hydro One that were externally driven and beyond Alectra's control;

- The Council recognizes that multi-year ICMs may be approved by the OEB as exceptions to the annual approach, but these should be limited to large multi-year projects. Alectra is seeking multi-year approval for a series of relatively small projects as compared to its overall capital budget for the consolidated utility;

The Council submits that the OEB should not grant Alectra's request ICM funding request, as it is not consistent with the OEB's established ICM policies. ICM funding is not available to support typical annual programs. In addition, Alectra has not demonstrated that these investments are urgent and has clearly not demonstrated that it has exhausted other available options to manage its costs within its budget envelope. Alectra continues to benefit from the savings generated through its consolidation, but continues to come back to the OEB seeking additional funding from its customers. Alectra should be incented to look for efficiencies in its capital program execution. As set out by the OEB in the M-factor Decision, "Alectra Utilities should consider the option of placing a stronger focus on executing its planned work in a more efficient way in order to complete its DSP with less capital funding."<sup>13</sup>

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<sup>13</sup> EB-2019-0018 Partial Decision and Order