



# DECISION AND ORDER

**EB-2022-0013**

## Alectra Utilities Corporation

**Application for rates and other charges to be effective  
January 1, 2023**

**BEFORE: Allison Duff  
Presiding Commissioner**

**Michael Janigan  
Commissioner**

**Anthony Zlahtic  
Commissioner**

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**November 17, 2022**

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# 1 OVERVIEW

Alectra Utilities Corporation (Alectra Utilities) filed an incremental capital module (ICM) application with the Ontario Energy Board (OEB) on May 16, 2022 under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act) seeking approval for ICM rate riders to be effective January 1, 2023. This application covers two of Alectra Utilities rate zones (RZ): the Enersource RZ (which is comprised of customers of the former Enersource Hydro Mississauga Inc.) and PowerStream RZ (which is comprised of customers of the former PowerStream Inc.).

Alectra Utilities serves approximately one million mostly residential and commercial electricity customers in its five RZs. These five RZs cover 17 communities that include: the Cities of Hamilton and St. Catharines in the Horizon RZ; the City of Brampton in the Brampton RZ; the Cities of Barrie, Markham, Vaughan and the Towns of Aurora, Richmond Hill, Alliston, Beeton, Bradford West Gwillimbury, Penetanguishene, Thornton, and Tottenham in the PowerStream RZ; the City of Mississauga in the Enersource RZ; and the City of Guelph and the Village of Rockwood in the Guelph RZ. Alectra Utilities is seeking the OEB's approval for proposed changes to the rates it charges to distribute electricity to its customers, as is required of licensed and rate-regulated distributors in Ontario.

Following the merger in 2017 that formed Alectra Utilities, Alectra Utilities was granted a ten-year deferred rebasing period from 2017 to 2026 for the Horizon RZ, Enersource RZ, PowerStream RZ and Brampton RZ. The Guelph RZ was later separately acquired by Alectra Utilities and was granted a ten-year deferred period from 2019 to 2028. The Price Cap Incentive Rate-setting option (Price Cap IR) is applicable to each of Alectra Utilities' RZs.

An ICM is a funding mechanism available for significant capital projects for which a utility requires rate recovery in advance of its next rebasing application. Alectra Utilities is expected to rebase and establish distribution rates effective January 1, 2027 at the end of its deferred rebasing period.<sup>1</sup>

Alectra Utilities is seeking ICM funding of \$25.3 million in 2023 for the renewal of deteriorated cables in the PowerStream and Enersource RZs. The requested funding would be used to repair deteriorating underground cables through silicone injection (where possible) and cable replacement in areas where injection is not a viable option.

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<sup>1</sup> EB-2018-0014 Decision and Order, October 18, 2018, p. 11. Alectra Utilities is expected to rebase its Horizon, Enersource, PowerStream, and Brampton RZs with new distribution rates effective January 1, 2027. Alectra Utilities is expected to rebase its Guelph RZ with rates effective January 1, 2029.

Alectra Utilities is also seeking the approval for the need and prudence of additional cable renewal funding in 2024 within the two RZs. Alectra Utilities based its request on the OEB's guidance on advance capital module (ACM) requests as outlined in Section 3.3.1 of the *Filing Requirements for Electricity Distribution Rate Applications – Chapter 3 Incentive Rate-Setting Applications* (Chapter 3 Filing Requirements).<sup>2</sup>

The OEB approves ICM funding for the PowerStream RZ in 2023. In this Decision and Order, the OEB has calculated the amount of that funding to be \$16.2 million, a reduction of \$0.4 million from Alectra Utilities' request of \$16.6 million. This amount is subject to confirmation by Alectra Utilities of the OEB's calculation of the revised 2023 maximum eligible incremental capital amount for the PowerStream RZ, using the 2023 inflation factor of 3.7%, as part of the Draft Rate Order process.

The OEB approves ICM funding for the Enersource RZ in 2023. In this Decision and Order, the OEB has calculated the amount of funding to be \$1.9 million, a reduction of \$6.8 million from the funding request of \$8.7 million. Alectra Utilities was able to fund an average of \$14.6 million for its cable program in the Enersource RZ through existing distribution base rates from 2017 to 2022 and is expected to do so in 2023.

The OEB does not approve the ACM request for the 2024 cable program in the PowerStream RZ or the Enersource RZ. This is not a cost of service application when an ACM may be sought.

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<sup>2</sup> *Filing Requirements for Electricity Distribution Rate Applications – Chapter 3 Incentive Rate-Setting Applications*, June 24, 2021

## 2 CONTEXT AND PROCESS

Alectra Utilities filed its application on May 16, 2022 under section 78 of the OEB Act and in accordance with the Chapter 3 of the OEB's [Filing Requirements for Incentive Rate-Setting Applications](#) (Filing Requirements). Notice of Alectra Utilities' application was issued on June 2, 2022.

The Association of Major Power Consumers in Ontario (AMPCO), Building Owners and Managers Association (BOMA), Consumers Council of Canada (CCC), Coalition of Concerned Manufacturers and Business of Canada (CCMBC), Distributed Resource Coalition (DRC), Environmental Defence Canada Inc. (ED), Power Workers' Union (PWU), Small Business Utility Alliance (SBUA), School Energy Coalition (SEC), and Vulnerable Energy Consumers Coalition (VECC) were granted intervenor status. All intervenors except for PWU were approved for cost awards eligibility.

The application was supported by pre-filed written evidence and completed Rate Generator Models. During the proceeding, OEB staff and intervenors submitted interrogatories, to which Alectra Utilities provided written responses. Submissions on the application were filed by OEB staff, AMPCO, CCC, CCMBC, DRC, ED, PWU, SBUA, SEC, and VECC. Alectra Utilities filed a reply submission addressing the submissions of the other parties on September 15, 2022.

On October 11, 2022, the OEB issued Procedural Order No. 2, in which the panel asked Alectra Utilities to (i) clarify how it defines 'emerging underground projects', and (ii) reconcile its 2017-2024 actual and forecasted underground cable renewal spending for the two RZs.

On October 18, 2022, Alectra Utilities filed written responses to those questions.

### 3 INCREMENTAL CAPITAL MODULE/ ADVANCED CAPITAL MODULE

The OEB's ICM policy and ACM policy were established in the *New Policy Options for the Funding of Capital Investments: The Advanced Capital Module* (the ACM Report).<sup>3</sup>

The ICM policy was established to address the treatment of a distributor's capital investment needs that arise during a Price Cap IR rate-setting plan and which are incremental to a calculated materiality threshold. An ICM is a means by which a distributor can collect additional revenue from customers to fund capital expenditures in the years between cost of service applications. 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 projects that do not have a significant influence on the operations of the distributor. Similar to the ICM, the ACM was established to address a distributor's capital needs during the Price Cap IR years. According to the ACM Report, an ACM is planned during the rebasing year as part of the cost of service application. The purpose of the ACM is to assist in creating regulatory efficiencies.<sup>4</sup>

In order to qualify for ICM funding, a distributor must satisfy the eligibility criteria of materiality, need and prudence<sup>5</sup> In February 2022, the OEB released a letter, titled *Incremental Capital Modules During Extended Deferred Rebasing Periods* (February 2022 ICM Update). The February 2022 ICM Update provides additional flexibility for electricity distributors to apply for incremental capital funding for an annual capital program during years six to ten of an extended rebasing period where it also meets a set of additional criteria.<sup>6</sup>

Unlike the ICM, ACM approval is completed in advance of the project's in-service year and involves only the approval of the need and prudence of the project. The materiality of the project is recalculated during the associated Price Cap IR year.

The ICM addresses the question of materiality in two steps. The first step involves applying the ICM "materiality threshold formula", which serves to define the level of

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<sup>3</sup> The OEB's policy for the funding of incremental capital is set out in the *Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014 (Funding of Capital Report) and the subsequent *Report of the OEB New Policy Options for the Funding of Capital Investments: Supplemental Report* (Supplemental Report) (collectively referred to as the ICM policy).

<sup>4</sup> The ACM Report, p. 11.

<sup>5</sup> The ACM Report, p. 16.

<sup>6</sup> February 2022 ICM Update, p.2.

capital expenditures that a distributor should be able to manage within current rates.<sup>7</sup> This step provides that any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount and must clearly have a significant influence on the operation of the distributor.<sup>8</sup> A second, project-specific, materiality test provides that minor expenditures, in comparison to the overall capital budget, should be considered ineligible for ICM treatment. Moreover, a certain degree of project expenditure over and above the OEB-defined threshold calculation is expected to be absorbed within the total capital budget.<sup>9</sup>

With regard to the need criterion, as outlined in the ACM Report, any incremental capital amount being requested shall be (i) based on one or more discrete project(s), (ii) directly related to the claimed driver, and (iii) clearly outside of the base upon which the distributor's rates were derived.<sup>10</sup> A distributor must also pass the "means test." Under the means test, if a distributor's most recently available regulated return on equity (ROE) exceeds 300 basis points above the deemed ROE embedded in the distributor's rates, then funding for any incremental capital project would not be allowed.

Additionally, a distributor needs to establish that the incremental capital amount it proposes to incur is prudent. To satisfy the "prudence test", a distributor must demonstrate that its decision to incur the incremental capital represents the most cost-effective option for its customers (though, not necessarily the least initial cost option).

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<sup>7</sup> The ICM materiality threshold formula refers to the updated multi-year materiality threshold formula as defined on p. 19 of the Supplemental Report.

<sup>8</sup> The ACM Report, p.17.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

## 4 THE ICM AND ACM FUNDING REQUESTS

Alectra Utilities is seeking incremental ICM funding for the renewal of deteriorating underground cables across numerous neighbourhoods in the PowerStream and Enersource RZs. According to Alectra Utilities, cable renewal would be completed through silicone injection where possible. In areas where cables are far too deteriorated to utilize silicone injection, the cable would be replaced. Alectra Utilities' application included cable renewal projects in 28 neighbourhoods within the two RZs. Alectra Utilities plans to complete the cable renewal projects between 2023 and 2024.<sup>11</sup>

The 2023 ICM funding request would establish new rate riders for January 1, 2023.

The 2024 ACM request would not establish any new rates for January 1, 2024 as part of this proceeding. Referring to the ACM report, Alectra Utilities is seeking approval for the need and prudence of the projects in 2024, however the materiality calculations for the 2024 cable renewal program would be updated for OEB approval as part of its 2024 Price Cap IR application.<sup>12</sup>

The following tables outline the funding requests for the 2023 and 2024 cable renewal programs for the PowerStream and Enersource RZs.<sup>13</sup>

**Table 1: Incremental Capital Expenditure – PowerStream RZ**

<b>Project Description</b>	<b>2023</b>	<b>2024</b>	<b>Total</b>
Cable Injection	\$5,912,536	9,431,280	\$15,343,816
Cable Replacement	\$10,721,259	8,812,384	\$19,533,644
<b>Total Incremental Capital</b>	<b>\$16,633,796</b>	<b>\$18,243,664</b>	<b>\$34,877,460</b>

**Table 2: Incremental Capital Expenditure – Enersource RZ**

<b>Project Description</b>	<b>2023</b>	<b>2024</b>	<b>Total</b>
Cable Injection	\$2,926,499	3,515,638	\$6,442,137
Cable Replacement	\$5,802,666	5,173,243	\$10,975,908
<b>Total Incremental Capital</b>	<b>\$8,729,165</b>	<b>\$8,688,880</b>	<b>\$17,418,045</b>

<sup>11</sup> 2023 Electricity Distribution Rates (EDR) Application (EB-2022-0013), Exhibit 3, Tab 1, Schedule 4, p.1.

<sup>12</sup> 2023 EDR Application, Exhibit 2, Tab 1, Schedule 1, p.20.

<sup>13</sup> 2023 EDR Application, Exhibit 1, Tab 1, Schedule 4, p.7.

Alectra Utilities argues that the ICM and ACM requests for cable renewal funding are required to address the worsening reliability within the PowerStream and Enersource RZs. According to Alectra Utilities, base rates are insufficient to cover the level of investment required to effectively improve the quality of underground cables.

PWU submitted that Alectra Utilities' ICM/ACM proposal should be approved, arguing the request minimizes the long-run costs to be borne by ratepayers and also meets the eligibility criteria. DRC also supported the proposal, subject to a number of requests related to the impact of the ICM/ACM on distributed energy resources (DERs), including electric vehicles (EVs). SBUA further supported approval of the ICM/ACM proposal, but such support was contingent on the implementation of specific measures to mitigate impacts on small businesses. OEB staff partially supported approval of the ICM/ACM proposal with a reduction to the requested incremental capital of \$9.5 million. AMPCO, CCC, CCMBC, SEC, and VECC submitted that the ICM/ACM proposal should not be approved. ED took no position on the ICM/ACM proposal given Alectra Utilities is currently undergoing an electrification study that relates to the issues that ED is interested in.

## 5 ICM AND ACM CRITERIA AND OTHER ISSUES

### 5.1 Materiality

#### 5.1.1 Materiality Threshold

Alectra Utilities calculated its maximum eligible incremental capital amount to be \$22.1 million for the PowerStream RZ in 2023 and \$19.9 million in 2024, given available 2022 inflation data.<sup>14</sup> Alectra Utilities calculated the maximum eligible incremental capital amount for the Enersource RZ to be \$13.2 million in 2023 and \$7.9 million in 2024.<sup>15</sup> Alectra Utilities stated that it would update inflation data for 2023 in the materiality threshold calculation once the 2023 inflation factor was available.

Intervenors did not take issue with Alectra Utilities' materiality threshold calculations or the maximum eligible incremental capital amount.

OEB staff took no issue with Alectra Utilities' materiality threshold calculation. As an aside, OEB staff outlined an alternative approach to the materiality threshold calculation. Currently, the materiality threshold formula uses the most up-to-date inflation value. Given the sharp increase to inflation during the past few years, the current year's inflation does not represent the historical inflation since the last rebasing year for each RZ. According to OEB staff, a materiality threshold calculation that uses a geometric mean of all inflation values from the RZ's last rebasing until the year of the application is a more realistic representation of inflation.<sup>16</sup> Although OEB staff believes the alternative approach to be a more realistic representation of inflation, OEB staff ultimately submitted that given policy, Alectra Utilities correctly applied the materiality threshold calculation.

In reply, Alectra Utilities submitted that amendments to ICM policy should be considered through a policy review process rather than as part of this proceeding.

### Findings

On October 20, 2022, the OEB issued a letter titled, *2023 Inflation Parameters*.<sup>17</sup> The letter outlined the updated 2023 inflation factor for electricity distributors to be 3.7%. Using the updated inflation data, the 2023 materiality threshold for the PowerStream RZ is calculated to be \$103.8 million, resulting in an eligible incremental capital of \$16.2

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<sup>14</sup> 2023 EDR Application, Exhibit 2, Tab 1, Schedule 1, p. 5-7.

<sup>15</sup> 2023 EDR Application, Exhibit 2, Tab 1, Schedule 1, p.15.

<sup>16</sup> OEB Staff Submission, p.4-7.

<sup>17</sup> 2023 Inflation Parameters, October 20, 2022, p.1.

million. For the Enersource RZ, the updated 2023 materiality threshold is calculated to be \$56.1 million with an eligible incremental capital of \$9.3 million.

The OEB applied the 3.7% inflation factor to calculate the 2023 ICM materiality thresholds. The OEB will not change the inflationary input to the ICM calculations as outlined by OEB staff. OEB staff's suggestion could be considered as part of a review of the OEB's ICM policy but should not be considered in this proceeding given that it was only raised by OEB staff in its submission and calculations were not provided to the other parties to allow for a thorough consideration of this issue.

The OEB calculated the 2023 materiality thresholds and maximum eligible incremental capital amounts incorporating the 3.7% inflation factor in Table 3.

**Table 3: 2023 ICM Calculations with 3.7% Inflation Factor**

<b>2023 ICM Calculations</b>	<b>PowerStream RZ</b>	<b>Enersource RZ</b>
<b>Capital Expenditures</b>	\$119,919,658	\$65,401,326
<b>Materiality Threshold</b>	\$103,750,563	\$56,106,408
<b>Max Eligible Incremental Capital</b>	\$16,169,095	\$9,294,918
<b>Requested Incremental Capital</b>	\$16,633,796	\$8,729,165

In Table 3, the calculated 2023 maximum eligible incremental capital of \$16.2 million for the PowerStream RZ based on the 3.7% inflation factor and the 2023 capital expenditure forecast, is lower than the requested ICM funding amount of \$16.6 million.

The OEB will use the calculations in Table 3 for the purposes of this Decision. In a draft rate order, Alectra Utilities will need to verify the calculations in Table 3 and provide an updated Rate Generator Model applying the 2023 inflation factor.

Submissions regarding actual capital program spending prior to 2023 and adjustments to the calculated maximum eligible incremental capital amounts in 2023 are addressed subsequently (see Beyond Expected Base Rate Funding section of this Decision).

### **5.1.2 Project-Specific Materiality Threshold**

Alectra Utilities compared the cable renewal programs for each RZ to Alectra Utilities' overall capital budget. In comparison to its overall capital budget of \$287.8 million in 2023 and \$293.5 million in 2024, Alectra Utilities submitted that the summation of cable

renewal projects in each RZ in each year (herein referred to as cable renewal programs) are significant relative to its overall budget.<sup>18</sup>

Most parties did not take issue with Alectra Utilities' project-specific materiality threshold calculations.

However, CCMBC submitted that the project-specific materiality threshold was not met, as CCMBC compared each individual neighbourhood cable renewal project to Alectra Utilities' capital budget. Each individual project is less than 1% compared to Alectra Utilities' capital budget.<sup>19</sup>

VECC submitted that the projects were not material in light of Alectra Utilities' original capital budgets in its distribution system plan (DSP)<sup>20</sup> and took issue with materiality given the adjusted budgets after "self imposed" capital spending reductions.<sup>21</sup>

Alectra Utilities responded to CCMBC arguing that the February 2022 ICM Update is the correct basis upon which to approach the project-specific materiality threshold. As such, Alectra Utilities submitted that the total incremental cable renewal funding for each year should be compared to the distributor's capital budget, as was done by Alectra Utilities in its original application.<sup>22</sup>

## Findings

The OEB finds that the "project-specific materiality" criterion is not applicable to Alectra Utilities' funding request. The February 2022 ICM Update expands the circumstances when ICM funding can be available to include ongoing capital programs during an extended rebasing period where certain additional requirements are met. Alectra Utilities' ICM funding application is based on an ongoing cable program. The application is not for ICM funding of individual projects as anticipated when the ACM Report was issued in 2014.

### 5.1.3 Significant Influence on Operations

Alectra Utilities displayed the influence of the ICM/ACM on operations by outlining the reliability improvements to each RZ, noting that the ICM/ACM will avoid 300 cable failure related outages in the PowerStream RZ and 150 cable failure related outages in

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<sup>18</sup> 2023 EDR Application, p.8, p.15.

<sup>19</sup> CCMBC Submission, p.7.

<sup>20</sup> In 2019, as part of the M-Factor case (EB-2019-0018), Alectra Utilities filed a DSP outlining its capital expenditure plan for the period of 2020 to 2024. As part of the current application, Alectra Utilities provided an adjusted capital plan for the same period.

<sup>21</sup> VECC Submission, p.8

<sup>22</sup> Alectra Utilities Reply Submission, p.13.

the Enersource RZ, while also avoiding a combined \$180 million in future cable renewal costs across the RZs.

OEB staff calculated the 2023 revenue requirement materiality threshold (significant influence test), as per Chapter 2 of the OEB's [Filing Requirements for Electricity Distribution Rates](#). According to OEB staff, Alectra Utilities passed the revenue requirement materiality threshold when excluding accelerated capital cost allowance (CCA) but the materiality threshold was not met when including accelerated CCA. OEB staff noted that the ACM Report does not define what constitutes significant influence and took no issue with Alectra Utilities excluding the impact of accelerated CCA on its proposed 2023 revenue requirement. Ultimately, OEB staff took no issue with the significant influence criteria, submitting that the significant influence test should be balanced with the other materiality thresholds, as discussed in the sections above, as well as the need and prudence of the ICM/ACM.

No intervenor took issue with the significant influence of the ICM/ACM on operations.

## Findings

The OEB finds that the 2023 ICM request and the 2024 ACM request each have a significant influence on operations and on the reliability of distribution service in the PowerStream and Enersource RZs. The OEB approves the calculation of the revenue requirement without the impact of accelerated depreciation which is consistent with the Filing Requirements and generally with other ICMs approved to date.<sup>23</sup> Alectra Utilities shall record the ICM impact from accelerated CCA in Account 1592.

## 5.2 Need

### 5.2.1 Means Test

Alectra Utilities stated that its most recent available ROE (for 2021) is 6.18% which is 2.77% (277 basis points) lower than its consolidated deemed ROE of 8.95%. Because its most recent ROE of 6.18% does not exceed 300 basis points above its deemed ROE, Alectra Utilities submitted that it has satisfied the means test.<sup>24</sup>

No party took issue with Alectra Utilities' position that it passed the means test.

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<sup>23</sup> See Brantford Power Inc. (EB-2019-0022) and Energy+ Inc. (EB-2019-0031) and PUC Distribution Inc. (EB-2020-0249 and EB-2018-0219)

<sup>24</sup> 2023 EDR Application, Exhibit 2, Tab 1, Schedule 1, p.16.

## Findings

The OEB finds that Alectra Utilities passes the means test as the actual 2021 consolidated ROE of 6.18% is lower than the deemed ROE of 8.95%.

### 5.2.2 Discrete Project

Most parties did not take issue with the discrete project criterion for the proposed ICM/ACM given the February 2022 ICM Update which opened up the possibility of ICM funding for ongoing programs (non-discrete projects) during a distributor's extended deferred rebasing period following consolidation.

CCMBC submitted that incremental funding should not be available for cable renewal as the 28 neighbourhood projects are not discrete, with CCC also submitting that these types of investments under the OEB's policies should not qualify for ICM treatment as cable renewal should be considered an ongoing capital program.<sup>25 26</sup>

In its reply, Alectra Utilities also pointed to the February 2022 ICM Update letter, stating that CCMBC's and CCC's claims are not consistent with OEB policy.<sup>27</sup>

## Findings

The OEB finds that the "discrete project" criterion is not applicable to Alectra Utilities' request. The February 2022 ICM Update expands the circumstances when ICM funding can be available to include ongoing capital programs during an extended rebasing period where certain additional requirements are met. Alectra Utilities' ICM funding application is based on an ongoing cable program, comprised of individual discrete projects. The application is not for ICM funding of discrete projects as anticipated when the ACM Report was issued in 2014.

### 5.2.3 Beyond Expected Base Rate Funding

Alectra Utilities' position is that each cable renewal proposed as part of its ICM/ACM is outside of what was expected to be funded in base rates as established in each RZ's last cost of service application.

PWU did not take issue with Alectra Utilities' position that the cable renewals are beyond the level of the expenditure expected in base rates. Although OEB staff

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<sup>25</sup> CCMBC Submission, p.2.

<sup>26</sup> CCC Submission, p.5.

<sup>27</sup> Alectra Utilities Reply Submission, p.9.

ultimately submitted that the ICM and ACM requests are beyond expected base rates, OEB staff, as well as CCC, CCMBC, SEC and VECC took issue with how Alectra Utilities prioritized its capital budget.

CCMBC argued that Alectra Utilities failed to discharge its onus to prove 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 projects that are included in those forecasts are of greater priority than the proposed ICM/ACM projects. CCMBC further submitted that Alectra Utilities has previously shown itself to be capable of spending less than what it had previously forecasted without any significant impact on the operation of the PowerStream RZ and Enersource RZ. Specifically, CCMBC noted that, in 2021, Alectra Utilities actual capital expenditures were \$261.9 million, compared to 280.2 million as forecasted in Alectra Utilities' previous DSP.<sup>28</sup>

SEC also made submissions related to Alectra Utilities' recent history of capital budget estimates exceeding actual capital spending. SEC submitted that eligible incremental funding should be reduced by the difference between the average level of actual spending between 2017-2021 for general plant investments compared to the average level of forecasted spending for general plant investments between 2022-2024. As such, SEC calculated the difference to be \$6.38 million per year for the PowerStream RZ and \$4.63 million for the Enersource RZ.<sup>29</sup>

In reply, Alectra Utilities submitted that its capital investment plans are developed to "address a set of well-defined priority needs that are aligned with the desired outcomes." Alectra Utilities disagreed with SEC's reduction due to variances between the historical planned and actual capital spending. The distributor explained that variances between the planned and actual spending can be attributed to the distributor reassessing its capital budget after the decision of each of the previous ICMs filed since its last rebasing.<sup>30</sup>

## Findings

Base rates for the PowerStream RZ and the Enersource RZ were last rebased in 2017 and 2013 respectively. Alectra Utilities received its first report on the poor condition of its cable assets in September 2018. As a result, the cable program encompassed by the ICM/ACM proposal was not part of the capital expenditure plans when rates were last rebased. To this extent, the OEB finds that the current cable program exceeds expected levels provided by base rates.

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<sup>28</sup> CCMBC Submission, p.6.

<sup>29</sup> SEC Submission, p.7.

<sup>30</sup> Alectra Utilities Reply Submission, p.11-12.

In the February 2022 ICM Update, the OEB updated the existing ICM policy for distributors who have selected an extended deferred rebasing period of more than five years as part of the terms of their consolidation.

The February 2022 ICM Update provided that the OEB will consider requests for ICM provision of additional funding for capital expenditures necessitated by new information that shows an urgent need for such expenditures in the extended rebasing period that had arisen since the last utility rebasing. However, the investment must be "beyond the normal level of capital expenditures expected to be funded by existing rates". Any ICM available under the qualifying requirements must then exclude the "normal level" amount expected to be expended by the utility.

The OEB has established the normal level in this application by reference to the pattern of annual expenditures in each of the PowerStream and Enersource RZs for cable replacement and cable injection work in a six-year period (2017-2022) prior to the ICM request.

**Table 4: Enersource RZ Capital Expenditure Funding 2017 to 2023**

Annual Cable Renewal Spending (\$ millions)	Cable Renewal Funding Supported Through Distribution Rates							ICM Request	
	Actual 2017	Actual 2018 <sup>31</sup>	Actual 2019	Actual 2020	Actual 2021	Actual & Budgeted 2022	Average 2017-2022	Budget 2023	Budget 2023
Cable Replacement	\$18.7	\$16.1	\$13.8	\$15.2	\$9.7	\$7.6	\$13.5	\$5.1	\$5.8
Cable Injection	N/A	N/A	\$0.0	\$0.0	\$0.0	\$1.7	\$0.4	\$1.6	\$2.9
Emerging Underground Projects	N/A	N/A	\$0.7	\$1.0	\$2.8	\$0.0	\$1.5	\$1.1	N/A
<b>Total</b>	\$18.7	\$16.1	\$14.5	\$16.2	\$12.6	\$9.3	\$14.6	\$7.8	\$8.7
<b>Total 2023 Cable Renewal Budget</b>								<b>\$16.5</b>	

**Table 5: PowerStream RZ Capital Expenditure Funding 2017 to 2023**

Annual Cable Renewal Spending (\$ millions)	Cable Renewal Funding Supported Through Distribution Rates							ICM Request	
	Actual 2017	Actual 2018	Actual 2019	Actual 2020	Actual 2021	Actual & Budgeted 2022	Average 2017-2022	Budget 2023	Budget 2023
Cable Replacement	\$8.3	\$9.9	\$6.7	\$11.9	\$6.3	\$9.5	\$8.8	\$7.4	\$10.7
Cable Injection	\$3.7	\$3.6	\$3.8	\$7.9	\$7.4	\$9.7	\$6.0	\$8.8	\$5.9
Emerging Underground Projects	\$0.0	\$0.0	\$1.9	\$1.9	\$3.0	\$2.3	\$2.3	\$1.4	N/A
<b>Total</b>	\$12.0	\$13.5	\$12.4	\$21.7	\$16.7	\$21.5	\$16.3	\$17.6	\$16.6
<b>Total 2023 Cable Renewal Budget</b>								<b>\$34.2</b>	

<sup>31</sup> In 2017 and 2018, all cable renewal work was tracked under cable replacement based on the practices of the Enersource legacy utility.

In the Enersource RZ, Alectra Utilities funded an average of \$14.6 million for its cable program through existing distribution base rates from 2017 to 2022 and is expected to do so in 2023.

With \$14.6 million funded through base rates and \$1.9 million in ICM funding, a total of \$16.5 million should be available to fund the total cable program in the Enersource RZ as forecast in 2023.

In the PowerStream RZ, Alectra Utilities funded an average of \$16.3 million for the cable program through base rates from 2017 to 2022 and the base rate funding of \$17.6 million in 2023 is commensurate with the average actual spend. The OEB is satisfied with the level of 2023 base rate funding budgeted for the cable program in the PowerStream RZ.

### 5.3 Prudence

Alectra Utilities specified that it leveraged its new Asset Analytics Platform to identify emerging hotspots for cable renewal by overlaying maps of recent cable-related outages with asset condition results emerging hotspots for cable renewal.<sup>32</sup>

Alectra Utilities stated that it has considered various options for cable renewal. Alectra Utilities found that cable injection would be the most cost-effective option in areas where cables are not too far deteriorated, and cable replacement would be used elsewhere.<sup>33</sup> Alectra Utilities estimated that because cable injection is one-sixth the cost of cable replacement, completing the cable injection program over 2023 and 2024 will save approximately \$180 million in future capital renewal costs compared to replacing them later when they have too far deteriorated.<sup>34</sup>

In response to intervenor interrogatories, Alectra Utilities stated that cables have been sized based on the Alectra Utilities standard. At a high level, the cables have been sized such that there is room for additional load growth from electrification and space heating.<sup>35</sup>

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<sup>32</sup> 2024 EDR Application, Exhibit 3, Tab 1, Schedule 2, p.13.

<sup>33</sup> 2023 EDR Application, Exhibit 2, Tab 1, Schedule 1, p.10

<sup>34</sup> Alectra Utilities Corporation Incremental Capital Module Application for 2023 Electricity Distribution Rates and Charges, May 16, 2022, Exhibit 3, Tab 1, Schedule 4, p.1, 4

<sup>35</sup> Responses to Environmental Defence Canada Inc. Interrogatories, August 2, 2022, Interrogatory #3-ED-4a, p.2

However, SEC submitted that some of the neighbourhood projects can be deferred based on Alectra Utilities' reliability maps, which indicate that some projects will renew cables classified to be in 'fair' condition.<sup>36</sup>

AMPCO submitted that Alectra Utilities only focused on the PowerStream and Enersource RZs in the application even though the Horizon RZ has seen the highest increase in cable-related failures in terms of SAIDI and SAIFI.<sup>37</sup>

## Findings

The OEB finds the 2023 cable programs in the PowerStream RZ and Enersource RZ to be prudent. The cable projects selected for remediation represent prudent investment in capital for cable injection and cable replacement based upon the current condition of the cable assets in both RZs. The cable programs should help to ensure the reliability and quality of service.

The OEB will not reduce 2023 ICM funding as suggested by SEC, on the basis that certain cable projects could be deferred to a subsequent year, consistent with the OEB's findings of the urgent need. Further, the OEB will not review or opine on the 2023 cable programs in other RZs, as suggested by AMPCO, as additional funding is not being sought for those programs and are outside the scope of this proceeding.

## 5.4 February 2022 ICM Update

The February 2022 ICM Update indicated that the OEB was updating the existing ICM policy for electricity distributors who had consolidated to allow for them to apply for ICM funding for an ongoing capital program during the deferred extended rebasing period where the distributor can demonstrate:<sup>38</sup>

- 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
- How the ICM investment addresses customer needs and preferences and delivers benefits to customers

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<sup>36</sup> SEC Submission, p.5

<sup>37</sup> AMPCO Submission, p.4.

<sup>38</sup> February 2022 ICM Update, p.2.

- A history of good utility practice in capital planning, capital program management and asset maintenance
- Exhaustion of other available options to manage its costs within the envelope provided by the existing price cap or another applicable formula

#### 5.4.1 Urgent Need Based on New Information

Alectra Utilities argued that there is an urgent need for cable renewal within the PowerStream and Enersource RZs based on worsening reliability which has outpaced what was expected at the time of the previous DSP. Alectra Utilities believes that if deteriorating cables are not addressed, by 2025 one of every four neighbourhoods in its service area will be served by deteriorated cables.

Based on Alectra Utilities' new Asset Analytics Platform and the worsening reliability of cables, OEB staff and PWU agreed that there is an urgent need for cable renewal based on new information.

Both VECC and AMPCO challenged Alectra Utilities' idea that cable health is further deteriorating based on reliability trends. VECC submitted that the data presented by Alectra Utilities does not demonstrate a substantial change in reliability over the last two years to justify the ICM.<sup>39</sup> AMPCO submitted that the average customer hours of interruption and the average number of customer interruptions from 2019 to 2021 are less than that from 2016 to 2018. AMPCO also stated that the asset condition assessment (ACA) provided by Alectra Utilities only considered cable age and cable type, and as such, the ACA does not provide enough new information on cable health to classify the ICM cable renewal projects as urgent.<sup>40</sup>

CCMBC took issue with the criteria itself, submitting that it is very easy to prove there is new information through an updated cable survey given that the distributor, such as Alectra Utilities, would be in an extended rebasing period.<sup>41</sup>

### Findings

The OEB finds that the cable program is urgent based on new information that has arisen, specifically the asset condition report and preparation of the DSP after the RZs were last rebased.

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<sup>39</sup> VECC Submission, p.4-5.

<sup>40</sup> AMPCO Submission, p.3.

<sup>41</sup> CCMBC Submission, p.12.

The current asset condition requires urgent cable replacement and cable injection to ensure reliability and quality of service. In addition, the PowerStream RZ and the Enersource RZ last rebased in 2017 and 2013 respectively, and Alectra Utilities received its first report on the poor condition of cable assets in September 2018.<sup>42</sup> The consolidated DSP was prepared after this asset condition report. Since September 2018, after the poor asset condition was reported, the cables have further aged.

The OEB finds that Alectra Utilities has met this criterion. Because the relevant time period for assessing whether the information is new is the time of the last rebasing, submissions regarding recent reliability information in the last few years or an updated survey are not helpful to determining this requirement for ICM funding.

#### **5.4.2 Addresses Customer Needs and Preferences**

A customer engagement survey was completed in 2022 by Innovative Research Group Inc. on behalf of Alectra Utilities. The survey asked customers in the PowerStream and Enersource RZs for their preference on a number of cable renewal investment strategies. Results of the survey indicated that customers were mostly in favour of at least some investment into both cable injection and cable replacement. The survey also asked customers to rank and rate several customer outcomes. According to the results of the survey, delivering reasonable electricity distribution prices and reliable service were consistently among the top two outcomes.<sup>43</sup>

Most intervenors did not take issue with Alectra Utilities submitting that the ICM/ACM addresses customer needs and preferences. In fact, DRC submitted that the ICM/ACM would support customers on the transition to DERs including EVs.<sup>44</sup>

However, CCMBC took issue with the criteria itself, submitting that it is easy to prove an ICM or ACM addresses customer needs and preferences with a professionally designed customer survey, as Alectra Utilities has done.<sup>45</sup>

### **Findings**

The OEB finds that Alectra Utilities is adequately addressing customer needs and preferences, given the customer engagement survey feedback filed with the application. In response to CCMBC, the OEB expects that input from customers will be weighed with other utility requirements to meet statutory objectives and Alectra Utilities should

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<sup>42</sup> EB-2019-0018, Exhibit 4, Appendix D.

<sup>43</sup> 2023 EDR Application, Exhibit 1, Tab 1, Schedule 4, p.9.

<sup>44</sup> DRC Submission, p.9.

<sup>45</sup> CCMBC Submission, p.12.

use judgment in addition to input from customer engagement, to prioritize capital expenditures.

### 5.4.3 History of Good Utility Practices and Exhaustion of Other Means

After the OEB did not approve Alectra Utilities' M-Factor application (EB-2019-0018), Alectra Utilities revised its annual capital spending amounts. Table 6 compares the 2020 DSP that was filed as evidence in the M-Factor proceeding to the Alectra Utilities' actual/forecast annual capital amounts for 2020 to 2024.<sup>46</sup>

**Table 6: Material Changes from DSP 2020 to 2024**

<b>Summary of Material Changes \$ millions</b>	<b>2020 Actual</b>	<b>2021 Actual</b>	<b>2022 Budget</b>	<b>2023 Forecast</b>	<b>2024 Forecast</b>	<b>Total</b>
Underground Asset Renewal	\$0.4	(\$18.9)	(\$26.9)	(\$38.0)	(\$41.8)	(\$125.2)
Lines Capacity	(\$9.9)	(\$17.0)	(\$12.7)	(\$14.2)	(\$3.2)	(\$56.9)
Information Technology Systems	(\$1.3)	(\$4.4)	\$9.5	\$17.1	\$13.4	\$34.3
Other	(\$16.1)	\$22.1	\$1.1	\$1.6	(\$11.1)	(\$2.4)
Total Reduction before Proposed ICM	(\$26.9)	(\$18.2)	(\$29.0)	(\$33.5)	(\$42.7)	(\$150.2)
Proposed ICM Investments	\$0	\$0	\$0	\$25.4	\$26.9	\$52.3
<b>Total Net Reduction</b>	<b>(\$26.9)</b>	<b>(\$18.2)</b>	<b>(\$29.0)</b>	<b>(\$8.1)</b>	<b>(\$15.8)</b>	<b>(\$97.9)</b>

Many intervenors and OEB staff submitted that Alectra Utilities failed to properly prioritize its projects. OEB staff, AMPCO, CCC, CCMBC, SEC, and VECC all submitted that Alectra Utilities should not have prioritized many of its general plant projects over cable renewal.

OEB staff further pointed out that Alectra Utilities developed a plan to spend \$9.5 million in customer experience – information technology projects over what was planned in Alectra Utilities' 2020 DSP from 2020 to 2024. In the same period, Alectra Utilities planned to defer \$125.2 million in cable renewal.<sup>47</sup> As such, OEB staff concluded that \$9.5 million should be reduced from the requested funding, especially since customers

<sup>46</sup> Responses to OEB Staff Interrogatories, August 2, 2022, 1-Staff-19a, p.2.

<sup>47</sup> Responses to School Energy Coalition Interrogatories, August 2, 2022, SEC-14, p.1

outlined reliability and fair distribution prices as top priorities over customer experience.<sup>48</sup>

In response to intervenors and OEB staff, Alectra Utilities submitted that the idea that Alectra Utilities prioritized general plant investment over cable renewal is an overgeneralization. According to Alectra Utilities, the distributor leveraged its Asset Management Principles to guide its asset management and investment planning processes. Alectra Utilities also stated that “each investment serves its own function and affects the utility and its customers differently.” According to Alectra Utilities, its planning principles considered the competing needs that must be satisfied to operate the entirety of the utility and not specific neighbourhoods. As such, the distributor pointed out that although cable renewal investment has an urgency to avoid cascading failures in certain neighbourhoods, general plant investments also address important needs that benefit many, if not all, of Alectra Utilities’ customers.<sup>49</sup>

In direct reply to OEB staff, Alectra Utilities believed OEB staff’s approach to be an oversimplification to its “comprehensive, data-driven and iterative capital planning and prioritization process.” Alectra Utilities argued investments cannot be prioritized simply by their rankings within the customer engagement survey. Otherwise, investments would be prioritized by their effect to reliability before their effect to customer prices and safety.<sup>50</sup>

Alectra Utilities also highlighted that although prices and reliability remain the top two priorities, customer experience remains an important priority amongst its customers. Customers were asked to identify their top priority reliability outcomes. According to survey results, residential customers identified reducing restoration time and reducing the number of outages during extreme weather events as their top priority reliability outcomes, followed by improving communication during outages. With ‘improving communication during outages’ being important to customers, Alectra Utilities believes that its level of investment in customer experience is prudent.<sup>51</sup>

CCC, SECC and VECC argued that Alectra Utilities is attempting to rebase its capital through ICMs while choosing not to rebase through a cost of service application.<sup>52 53 54</sup>

AMPCO and CCMBC also submitted that there was no evidence that the projects being funded through base rates are of higher priority in comparison to the cable renewal

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<sup>48</sup> OEB Staff Submission, p.16-18.

<sup>49</sup> Alectra Utilities Reply Submission, p.21-23.

<sup>50</sup> Alectra Utilities Reply Submission, p.24-27.

<sup>51</sup> Alectra Utilities Reply Submission, p.24-27.

<sup>52</sup> SEC Submission, p.1.

<sup>53</sup> CCC Submission, p.5.

<sup>54</sup> VECC Submission, p.9.

programs.<sup>55</sup> AMPCO pointed to Alectra Utilities prioritization process, claiming that Alectra Utilities did not put its ICM projects in its CopperLeaf C55 budget optimization process.<sup>56</sup>

In its reply, Alectra Utilities stated that it leveraged its Asset Analytics Platform to identify cable renewal projects along with remediation needs. These cable renewal projects are then entered into the CopperLeaf C55 prioritization program for optimization as part of the capital portfolio. Only then are the proposed ICM/ACM projects identified and included in customer engagement.<sup>57</sup>

Alectra Utilities responded to submissions regarding rebasing by pointing to the *Handbook to Electricity Distributor and Transmitter Consolidations*, dated January 19, 2016 (MAAD's Policy), which encourages the consolidation of distributors by allowing distributors to fully realize the expected efficiency gains of consolidation.<sup>58</sup> Alectra Utilities also quoted the February 2022 ICM Update which encourages distributors to take extended deferral periods by adding flexibility to the ICM policy.<sup>59</sup>

## Findings

While the OEB finds overall that Alectra Utilities meets the ICM funding criterion of demonstrating a history of good utility practice in capital planning, capital program management and asset maintenance, it also finds that Alectra Utilities' capital planning and execution could be improved going forward. This finding is based on Alectra Utilities' prioritization of general plant capital planning, in particular the prioritization of its customer experience capital expenditures planning ahead of its cable renewal program, a criticism raised by OEB staff as noted earlier in this Decision. The information regarding cable asset condition was available to management when the decision was made to defer budgeted cable project investment in 2020, 2021 and 2022 as planned in the 2020 DSP.

The OEB considers reliable electricity service a fundamental, core function and responsibility of an electricity distributor. Preventing power failures from underground cables in poor condition, in urgent need of replacement, should be of a greater priority than its customer experience project. Further, the OEB is not convinced that Alectra Utilities provided sufficient evidence to justify its prioritizing of some general plant projects in base rates over its cable replacement program.

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<sup>55</sup> CCMBC Submission, p.12.

<sup>56</sup> AMPCO Submission, p.5.

<sup>57</sup> Alectra Utilities Reply Submission, p.20.

<sup>58</sup> MAADs Policy, p.8-9.

<sup>59</sup> Alectra Utilities Reply Submission, p.8.

The OEB emphasizes that Alectra Utilities must give its overall cable renewal program the priority it needs. The need for Alectra Utilities to adjust its priorities is but one aspect of utility planning and does not alter the OEB's conclusion that Alectra Utilities meets the requirement of good utility practice.

Regarding submissions that Alectra Utilities chose not to rebase through a cost of service application, it is Alectra Utilities' decision whether to seek to rebase or apply for ICM funding for capital needs deemed urgent. Alectra Utilities may choose either option provided it is within the OEB requirements.

## 5.5 Other Issues

### 5.5.1 Relationship to M-Factor

SEC submitted that the ICM/ACM is essentially a "cosmetic recasting" of the M-Factor case, on the premise that Alectra Utilities is using a multi-year ICM proposal to fund its normal annual capital programs, of which Alectra Utilities believes can no longer be funded through annual IRMs. SEC also submitted that the deferral of cable renewal spending after the denial of the M-Factor could have led to a backlog of deteriorating cables. SEC believes Alectra Utilities is now blaming the OEB for the backlog due to the M-Factor decision.<sup>60</sup>

Similar sentiments were submitted by AMPCO and CCC, with AMPCO and CCC noting that many of the cable renewal projects for which Alectra Utilities is seeking incremental funding were also present in the rejected M-Factor case.<sup>61 62</sup>

Alectra Utilities responded by stating that there were no prohibitions at the time of the M-Factor decision stating that Alectra Utilities could not file for ICMs or ACMs in relation to projects that formed the 2020 DSP. Alectra Utilities also noted that all ICM applications, by definition, are driven by the need for incremental capital above what is funded through IRM rates. Lastly, Alectra Utilities believes AMPCO, CCC, and SEC have failed to consider the February 2022 ICM Update, which was not present at the time of the M-Factor case.<sup>63</sup>

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<sup>60</sup> SEC Submission, p.2-3.

<sup>61</sup> AMPCO Submission, p.4.

<sup>62</sup> CCC Submission, p.4.

<sup>63</sup> Alectra Utilities Reply Submission, p.5-6.

## Findings

The OEB's denial of the M-Factor application is not a reason to deny ICM funding in this application. The OEB rejected the concept/principle of "envelope capital increases", not cable replacement projects per se. This application is unique. The merits of the current ICM request for cable project funding that may have been included in the M-Factor application were not determined in that proceeding. Any cable replacement projects that were denied in that proceeding were among the 203 capital funding requests in the M-Factor application. The M-Factor application was based on Alectra Utilities' proposition that it was able to apply for capital funding similar to regular cost of service application funding during the deferred rebasing period.

As well, in the M-Factor proceeding, Alectra Utilities was given the opportunity to present ICM options that differed from the M-Factor approach in the event that the approach was rejected by the OEB.<sup>64</sup>

MR. JANIGAN: Okay. I have a question concerning what Alectra [Utilities] might wish us to do with the results of our deliberations.

In effect, there are three potential results. One is we accept your M-factor as applied for. Two, we accept your M-factor with amendments. Or three, we reject your M-factor. In the event that we choose three, what would Alectra [Utilities] urge us to do?

Now I understand from -- the reason I am asking this is that throughout this proceeding, we have gotten two messages, one is this is not an ICM application. The second is it's not a case of all or nothing at all.

So I am trying to sort of put that together in the event that door number 3 is what ends up in the decision.

If you are not able to answer this at this time, that's fine. It could be addressed in argument-in-chief, for example.

MR. BASILIO: I think that is the correct approach. I would just say that I think what we will offer are a range of options. But something we won't offer, and we will be very concerned about is we can't walk away with nothing. Because customers are at the other end of this, and I don't think it is in any of our interests to create a situation where this condition -- you know, the conditions outlined here

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<sup>64</sup> EB-2019-0018, Transcript Volume 3, pages 198-199.

persist in the absence of incremental funding for this type of capital. But we will put forward that in our reply.

In fact, in its reply submission in the M-Factor proceeding, Alectra Utilities chose not to put forward ICM options for the OEB to consider despite being encouraged to do so.<sup>65</sup> Further, the M-Factor decision provided Alectra Utilities with three options, amongst which was to make another ICM application for a subsequent year. Alectra Utilities did not make an ICM funding application for cable renewal until this proceeding.<sup>66</sup>

The OEB is thus adjudicating an ICM application that does not involve a rehearing of the merits of the M-Factor decision nor any application that might have been subsequently sought by Alectra Utilities that severed cable renewal projects from the 203 M-Factor requests.

### 5.5.2 Impact to Small Businesses

Although SBUA generally supports the ICM/ACM proposed by Alectra Utilities, SBUA submitted that the ICM should be granted on the basis that small businesses within the area of the cable renewals are appropriately warned and compensated due to the effects of potential outages during the cable renewal. SBUA also submitted that Alectra Utilities should provide backup generators to businesses that do not have them.<sup>67</sup>

Alectra Utilities responded to SBUA stating that the ICM/ACM should not be contingent on SBUA's measures to mitigate impacts to small businesses. Alectra Utilities submitted that cable renewals typically only cause planned outages to customers for up to eight hours. Alectra Utilities also stated that customers are typically notified one to two weeks in advance of work commencing, with outage hours being coordinated with customers.<sup>68</sup>

### Findings

The OEB is satisfied that Alectra Utilities appropriately notifies its customers regarding outages associated with planned outages associated with cable replacement. The issue of customer compensation and provision of backup generation is well beyond the scope of this proceeding.

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<sup>65</sup> EB-2019-0018, Partial Decision and Order, p. 28.

<sup>66</sup> Alectra Utilities applied for and was granted three ICM project fundings for capital expenditures unrelated to cable replacement in EB-2020-0002.

<sup>67</sup> SBUA Submission, p.2-3

<sup>68</sup> Alectra Utilities Reply Submission, p.31-33.

### 5.5.3 Impact to DERs and EVs

With regards to the rise in the use of DERs and EVs, DRC submitted that the OEB should adopt an approach that ensures that decisions both require and make use of updated information in a rapidly developing energy landscape. DRC also submitted that Alectra Utilities should be required to transparently track, monitor and periodically report any impact of the cable renewals on DERs, including customer costs, operations, reliability, load, and productivity. Any future ICM should include consideration of its long-term impact on the transition to DERs including EVs. DRC would also like to see distributors update rapidly changing assumptions based on climate and technology changes.<sup>69</sup>

In response to DRC, Alectra Utilities submitted that many of DRC's contingencies include generic policy matters and that an ICM would not be the appropriate forum for the OEB to consider changes to policy matters. Alectra Utilities also argued that tracking, monitoring and reporting on the impact of the ICM on DERs would fall outside of the OEB framework on ICMs.<sup>70</sup>

### Findings

The OEB agrees with Alectra Utilities that the DRC contingencies raised fall outside the OEB's framework on ICMs and the scope of this proceeding.

## 5.6 ACM Policy Implementation

Alectra Utilities' ACM approach to the 2024 cable renewal strategy differs from the ACM report, as ACMs are intended to be established at the time of rebasing during a cost of service application alongside a DSP.<sup>71</sup>

OEB staff submitted that although the 2024 cable renewal program was not presented as part of a cost of service application, the program is in line with the intent of the ACM policy, which is to promote regulatory efficiencies.<sup>72</sup> Since the 2024 cable renewal program shares the same need and prudence as the 2023 cable renewal ICM, OEB staff underscored that reviewing both programs simultaneously would be more efficient.<sup>73</sup>

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<sup>69</sup> DRC Submission, p.9-10

<sup>70</sup> Alectra Utilities Reply Submission, p.30.

<sup>71</sup> The ACM Report, p.11

<sup>72</sup> Ibid.

<sup>73</sup> OEB Staff Submission, p.18.

However, CCC, CCMBC, and SEC all took issue with the idea of a multi-year ICM. SEC pointed to the rejection of another multi-year ICM request, the Alectra Utilities' M-Factor application. SEC submitted that the OEB should reject the application on the basis that by seeking multi-year ICM funding, it is akin to the M-Factor application. SEC and CCC also submitted that multi-year ICM funding should only be used on an exceptional basis for large multi-year projects.<sup>74</sup>

Alectra Utilities replied that these arguments are flawed. Alectra Utilities pointed to the M-Factor decision, in which the OEB stated that there is no prohibition against multi-year ICM funding and invited Alectra Utilities to seek multi-year ICM funding as required.<sup>75</sup> By comparing this application to the M-Factor, the applicant also believes that SEC did not consider Alectra Utilities' approach to the 2024 rate riders, which is based on the ACM policy as outlined in the ACM Report. Alectra Utilities also claimed that there is a clear basis to divide the cable renewal program across two years for coordination of work and to minimize disruption to affected customers. In addition, Alectra Utilities argues that applying for an ACM for the 2024 cable renewal program allows for further considerations by the OEB before the 2024 IRM application is filed.<sup>76</sup>

## Findings

The ACM request for the 2024 cable program is denied. This is not a cost of service application in which an ACM can be sought. The Chapter 3 Filing Requirement for Incentive Rate-Setting Applications states:

A distributor must make an ACM request as part of a cost-of-service application. At that time, the need for, and prudence of, any such requests will be determined. Cost recovery (i.e. rate riders) for qualifying ACM projects will be determined in the subsequent Price Cap IR application for the year in which the capital investment will come into service.

The OEB cautions Alectra Utilities' reliance on the M-Factor decision that invited it to make a multi-year ICM application. As noted by SEC, CCMBC and CCC, the precedent Alectra Utilities relied on was for Toronto Hydro's 3-year ICM recovery for the construction of the Bremner Station.<sup>77</sup> Toronto Hydro's 3-year ICM should not be relied upon as Toronto Hydro's Bremner Station was for a large discrete project and not a cable replacement/injection program made up of smaller discrete projects in this instance.

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<sup>74</sup> SEC Submission, p.3; CCC Submission, p.5.

<sup>75</sup> OEB, Partial Decision and Order (EB-2019-0018), January 30, 2020, p. 28.

<sup>76</sup> Alectra Utilities Reply Submission, p.6-7.

<sup>77</sup> EB-2012-0064, Partial Decision and Order, April 2, 2013, page 8.

The availability of ICMs for merged utilities for typical capital programs in their sixth to tenth year of deferral of rebasing is an exception to a fundamental tenet of the OEB's MAADs policy. In particular, the policy provided that in a deferral period, monetary efficiencies arising from a merger would be retained by the merged entity and cost of service rebasing would be foregone during the deferral period. The current application is fundamentally based on the presence of two characteristics of an eligible ICM expenditure for this utility - urgency and new information arising since the last rebasing. Both of these characteristics are associated with ICMs for non-merged utilities.

ACMs, on the other hand, are instruments to accommodate capital expenditures that arise, not in the test year but in a cost of service term and allow for their consideration and, where approved, their incorporation into rates. The only similarity between ICMs and ACMs is that they involve capital expenditures that were not part of a test year revenue requirement at the time of rebasing. The OEB is not convinced that the balance of convenience and efficiency favours a deviation from existing policy. The stacking of an exception to ACM policy simply for expedience on top of the OEB-approved ICM exception does not meet with OEB approval and is denied.

## 6 IMPLEMENTATION AND ORDER

The OEB directs Alectra Utilities to revise the proposed rates to reflect the findings in this Decision and Order and to file a draft rate order for rates to be implemented January 1, 2023 based on the effective dates determined in this Decision and Order.

Certain intervenors are eligible to apply for cost awards in this proceeding. The OEB has made provision in this Decision and Rate Order for these intervenors to file their cost claims. The OEB will issue its cost awards decision after the steps outlined in the following Order section are completed.

### THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Alectra Utilities Corporation shall file with the OEB and forward to the intervenors a draft rate order with updated ICM models for the PowerStream and Enersource RZs which reflect the updated 2023 inflation factor and findings herein, and a proposed 2023 Tariff of Rates and Charges attached that reflects the OEB's findings in this Decision as well as the findings in EB-2022-0185, by December 12, 2022.
2. Cost eligible intervenors shall submit to the OEB and copy Alectra Utilities Corporation cost claims no later than December 12, 2022.
3. Alectra Utilities Corporation shall file with the OEB and forward to all cost eligible intervenors any objections to the claimed costs no later than January 11, 2023.
4. Cost eligible intervenors shall file with the OEB and forward to Alectra Utilities Corporation any responses to any objections for cost claims no later than January 19, 2023.
5. Alectra Utilities Corporation shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice no later than January 30, 2023.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2022-0013** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.

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All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Tyler Davids, at [Tyler.Davids@oeb.ca](mailto:Tyler.Davids@oeb.ca) and OEB Counsel, Lawren Murray, at [Lawren.Murray@oeb.ca](mailto:Lawren.Murray@oeb.ca).

Email: [registrar@oeb.ca](mailto:registrar@oeb.ca)

Tel: 1-888-632-2727 (Toll free)

**DATED** at Toronto, November 17, 2022

**ONTARIO ENERGY BOARD**

Nancy Marconi  
Registrar