

July 7, 2023

VIA RESS

Ms. Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, Suite 2700
Toronto, ON M4P 1E4

Dear Ms. Marconi:

Re: Request For Generic Variance Account; OEB File: EB-2023-0143

On May 11, 2023 a group of Ontario's largest utilities (the "Large Utilities") wrote to the OEB to request the establishment of a generic, sector-wide variance account for LDCs to track the incremental costs of locates for 2023 and beyond, mainly as a result of unforeseen cost impacts arising from the recently passed Provincial Bill 93 (*Getting Ontario Connected Act, 2022*).

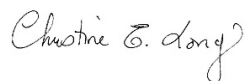
On June 14, 2023 the OEB responded to the Large Utilities' letter indicating that it required further information in order to determine how to proceed. In particular, the OEB required certain evidence to be prepared and filed with the OEB such that it could determine whether a generic hearing is required and/or to determine if the evidence would support approval of the Large Utilities' request.

The OEB required the Large Utilities to file their evidence by July 7, 2023, on a best efforts basis, and also requested that the Large Utilities work together to prepare their evidence in a relatively consistent fashion so as to assist the OEB in making its determinations.

Attached are Alectra Utilities' responses to the OEB's request for additional information pertaining to the request for a generic variance account.

Should you have any questions, please do not hesitate to contact the undersigned.

Yours truly,



Christine E. Long
Vice President, Regulatory Affairs and Privacy Officer
Alectra Utilities Corporation

RESPONSE

As described in the Large Utilities' letter, Bill 93 included certain amendments to the Ontario *Underground Infrastructure Notification System Act, 2012*, intended to facilitate construction activities to ensure they can be completed faster and more efficiently. In particular, the changes pertain to utility obligations to perform their duties in respect of locating underground infrastructure, or "locates", which are required by law to be performed to ensure public safety.

Specifically, the amendments require LDCs to complete locate requests within five days. Failure to comply subjects the LDC to administrative monetary penalties ("AMPs").

At the same time, the OEB will be aware that cost pressures are also mounting as a result of two additional elements.

First, the level and pace of activity has increased substantially, largely due to the Province's policy desire to foster building broadband, transit, and housing projects. The policy landscape has changed considerably with the introduction of many pieces of legislation that impact the demand for locates. Specifically the following Acts have had this effect:

- Bill 23 – More Homes Built Faster Act;
- Bill 171 – Building Transit Faster Act;
- Bill 257 – Building Broadband Faster Act;
- Bill 93 – Getting Ontario Connected Act.

This policy shift has increased the demand for locates, which has impacted both the price and volume of locate requests.

Second, an unforeseen labour shortage among locates field workers has meant that wages in the sector have risen dramatically. These tighter labour market conditions have increased costs for locates providers, which is being passed on to the utilities.

An additional issue is the uncertainty of the future application of penalties and enforcement. A penalty regime has been integrated directly within the legislation, and it has also been made clear that penalties cannot be factored into rate recovery. This means that utilities must ensure full compliance, without exception. As a result, utilities are left to absorb higher costs, without exception. Alectra has taken what action it can in an attempt to try to mitigate some of the cost impact, however, it is certain that these activities will not fully alleviate cost impacts.

While it is not possible to forecast the exact number of locates expected for the remainder of the year with complete certainty, there is little doubt that both the volume and price of locates taken together have substantially increased cost expectations. Alectra has taken a cautious and conservative approach to forecasting the volume of activity but has incorporated the higher cost

levels already observed in its forecast through to the end of the year. Alectra estimates that costs for 2023 related to locates will surpass \$10.5 MM, relative to the cost recovery amount built into base rates of approximately \$5 MM.

The table below displays the number of locates, the cost recovery amounts for locates in base rates, the actual costs for locates, and the difference for each year, over the 2017-2023 period. These numbers are used to facilitate responses to each of the OEB's questions below.

| | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 Projected (Jan-May Actuals) |
|---------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|---|
| Number of Locates Requests | 178,525 | 175,215 | 180,097 | 167,115 | 184,828 | 179,902 | 187,098 |
| Cost of Locate Services in Base Rates | \$4,423,000 | \$4,481,000 | \$4,551,000 | \$4,628,000 | \$4,716,000 | \$4,858,000 | \$5,023,000 |
| Actual Cost of Locate Services | \$5,504,000 | \$4,897,000 | \$4,675,000 | \$4,571,000 | \$4,894,000 | \$4,574,000 | \$10,450,000 |
| Cost Delta (actual or projected) | \$1,081,000 | \$416,000 | \$124,000 | -\$57,000 | \$178,000 | -\$284,000 | \$5,427,000 |

1. Evidence on what costs related to locates are currently included in each of the Large Utilities' approved revenue requirement (and hence already included in base rates).

The table above shows the level of costs for locates included in base rates for the sum of Alectra's legacy utilities, increased at the rate of the price cap index for each corresponding year for the 2017-2023 period. In total, Alectra has approximately \$5 MM in base rates for the provision of locates services.

2. Evidence on the number of locates that were conducted by each of the Large Utilities in the years 2017-2022.

The table above shows that the number of locates have averaged approximately 177,000 per year over the historical period.

3. Evidence on the incremental costs due to an increased volume of locates requests, and the incremental costs due to the need to meet the new requirements under Bill 93. Further, the utility should provide evidence on the materiality of these incremental locates costs, and a general description of how the utility plans to incur the incremental costs prudently.

As above, Alectra has taken a cautious and conservative approach to forecasting the volume of locates requests for 2023. Using costing already experienced for the January-May time period in 2023 results in a total forecasted cost of \$10.5 MM in 2023, relative to funding of \$5 MM resident in base rates. This produces a shortfall of approximately \$5.5 MM. If the volume of

locates requested, or if the price of locates increases further, then the funding shortfall will also increase.

As per the letter filed with the OEB by the Large Utilities, Alectra believes that the conditions for the establishment of a variance account have been met, as follows:

- Causation – the cause for cost increases are beyond the control of utilities, and are the result of external factors including governmental policy shifts and tightening labour market conditions, neither of which could reasonably have been incorporated into base rates, which for Alectra were established prior to 2017;
- Materiality – The forecasted cost shortfalls exceed the OEB-defined materiality threshold of \$1 MM for Alectra, and have a significant impact on Alectra’s costs and operations;
- Prudence – The costs of complying with mandated locate services and legislative changes have been, and will be, reasonably incurred. In addition, Alectra is taking additional steps in an effort to mitigate overall costs, as described below.

Alectra has been working extensively with many parties involved in the locates processes to ensure that processes, volumes, and ultimately the total cost of locates will be as efficient and prudent as possible. In particular, over the course of recent months, Alectra has undertaken the following:

- Working with municipalities, excavators, and infrastructure owners to advocate and arrange agreements for the use of the dedicated locates program to allow more efficient locates to be performed at a lower cost;
- Working with third party vendors to improve the rate of office locate clearing to reduce the required number of locates performed in the field;
- Making improvements to the quality of Alectra’ Geographical Information system data that is provided to locate service providers (“LSPs”) and office clearing staff to reduce the time spent on performing the locates and number of locates issued to the field;
- Working with LSPs on new opportunities to deliver a more efficient process through the use of technology to reduce the time spent in the field performing a locate.

4. An explanation of why the generic variance account should be retroactive to January 1, 2023.

The costs and the funding shortage began in advance of 2023, and utilities have not had an opportunity to reconfigure rates through rebasing that would otherwise be required to address resourcing and cost expectations. Bill 93 came into force in April 2022, and by October 2022, discussions were ongoing for the treatment of penalties. Labour market tightening followed suit.

5. Draft accounting order for the requested locates services costs variance account.

A draft accounting order has been prepared and is presented in Attachment 1.

In summary, Alectra finds itself in the position of responding to a significant and material change in business conditions for locates, due to factors beyond its control. Due to the speed with which these changes have occurred, Alectra has not been able to appropriately plan for or adapt its processes, nor seek rate recovery through rebasing. In particular, government policy, changing labour conditions and higher than normal levels of uncertainty are having an immediate and material impact on utility operations and finances, which are expected to persist.

As a result of all of the foregoing, Alectra again reiterates its request that the OEB approve the establishment of a variance account for the purpose of tracking actual costs relative to those built into base rates. As with other variance accounts, Alectra expects that the amounts captured in the variance account would be reviewed and evaluated for prudence, causation, and materiality at such time as the Company seeks or requests disposition.

Attachment 1

Alectra Utilities

Draft Accounting Order for the Establishment of a Locate Delivery Services Variance Account.

Accounting Order:

The purpose of this account is to track and record the variance between the actual costs incurred for the provision of locate delivery services relative to the costs for such provision included in base rates, effective January 1, 2023, as follows:

1. Account 1508 – Other Regulatory Assets, Sub-Account Locate Delivery Services Variance Account
2. Account 1508 – Other Regulatory Assets, Sub-Account Locate Delivery Services Variance Account, Carrying Charges

Carrying charges will apply to this account on the opening monthly balance at the OEB's prescribed rate as published on the OEB's website on a quarterly basis.

Distributors are expected to track costs with sufficient detail in order to assist a review of prudence of the costs incurred. The OEB will assess any claimed costs recorded in the account at the time the account is requested for disposition, subject to the causation, materiality, and prudence criteria.¹

Sample Journal Entries:

The following outlines the proposed accounting entries for this variance account.

Dr 1508 Other Regulatory Assets, Sub-Account Locate Delivery Services Variance Account
Cr 5070 (or 5040 for GRZ) OM&A

To record the variance between the actual cost to provide and/or receive locate delivery services and the costs included in base rates to provide and/or receive locate delivery services.

Dr 1508 Other Regulatory Assets, Sub-Account Locate Delivery Services Variance Account,
Carrying Charges
Cr 4405 Interest and Dividend Income

To record the carrying charges on the monthly opening balance in Account 1508 Other Regulatory Assets, Sub-Account Locate Delivery Services Variance Account

¹ Ontario Energy Board, Filing Requirements for Electricity Distribution Rate Applications - 2023 Edition for 2024 Rate Applications - Chapter 2 – Cost of Service - 2.9.2 Establishment of New Deferral and Variance Accounts