

October 18 2023

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

Dear Ms Marconi:

EB-2023-0004– Alectra Utilities Corporation – 2024 ICM – Final Submissions

Please find, attached, the Final Submissions of the Consumers Council of Canada pursuant to the above-referenced proceeding.

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

EB-2023-0004

ALECTRA UTILITIES CORPORATION – 2024 RATES – INCREMENTAL CAPITAL MODULE FUNDING

OCTOBER 18, 2023

INTRODUCTION:

On July 21, 2023, Alectra Utilities Corporation applied to the Ontario Energy Board for approval of Incremental Capital Module (ICM) funding in the PowerStream and Enersource Rate Zones (RZs) effective January 1, 2024. Alectra is seeking approval of 16 projects for a total proposed capital expenditure amount of \$25.1 million. The proposed projects are all either cable replacement or cable injection in the Enersource and PowerStream Rate Zones.

BACKGROUND:

Through its 2023 rates application Alectra sought ICM funding approval of \$25.3 million for 2023 and \$26.9 million for 2024 for cable replacement and cable injection projects. In its Decision the OEB approved \$18.1 million for 2023, but did not approve any amounts for 2024 on the basis that advanced capital module (ACM) requests are made at through a cost of service application and not during an incentive regulation mechanism (IRM) term.

Through this application Alectra is reapplying for approval of the projects that formed part of its previous application. Eleven of the proposed projects in the PowerStream RZ are the same as the projects identified in the 2023 Application. The Enersource RZ projects in this application consist of four of the 2023 projects and one of the 2024 projects. Because the OEB reduced the Enersource RZ funding in Alectra only proceeded with three of the original eight proposed¹.

SUBMISSIONS:

ICM requests are considered in the context of the OEB's eligibility criteria. The applicant must satisfy that criteria in order to obtain approval from the OEB for funding request. The criteria are materiality, need and prudence.²

Materiality

As described in the evidence the ICM addresses the question of materiality in two steps. The first is by applying the ICM "materiality threshold formula" which serves to define the level of

¹ Ex. 1/T1/S4/p. 9

² OEB Report of the Board Policy Options for the Funding of Capital Investments: The Advanced Capital Module, dated September 18, 2014, p. 17

capital expenditures that a distributor should be able to manage within current rates. 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.³

The formula incorporates ratebase, depreciation, growth, the price cap index (PCI), the number of years since the last rebasing and an inflation measure.

The inflation measure or Input Price Index (IPI) used to calculate the PCI in the materiality threshold formula is the OEB-approved inflation factor for the respective ICM year which is applied to each historical year. For 2024 that value is 4.8%.⁴

For the purpose of calculating the materiality thresholds Alectra is not proposing to use the OEB-inflation factor, but is proposing to use a RZ geometric mean. The reasoning is as follows:

- From Alectra's perspective as the multi-year ICM materiality threshold formula factors in the cumulative impact of both growth and the PCI over the years since the utility's last rebasing the retroactive application of the most recent inflation factor has a material impact on the resultant threshold value;
- This was unlikely to have been an issue when the ICM was introduced, when inflation rate variability was minimal. As a result, the use of the most recent inflation factor value will not accurately represent the historical effect of inflation on depreciation.⁵

Alectra is proposing a geometric mean of 2.17% for the Enersource RZ and 2.4% for the PowerStream RZ.

Using the geometric mean reduces the materiality threshold in the Enersource RZ from \$67.7 to \$40.7 million. For the PowerStream RZ it reduces the materiality threshold from \$130.5 million to \$90.5 million.⁶

The second step in determining materiality is a project-specific materiality test which considers that minor expenditures in comparison to the overall capital budget should be considered for ACM or ICM treatment. A certain degree of project expenditures over and above the OEB defined threshold area expected to be absorbed within the total. This has been addressed both through the OEB's February 2022 letter regarding ICM treatment and the OEB's Decision in Alectra's 2023 application. In that Decision the OEB stated:

³ Ex. 2/T1/S1/p. 4

⁴ Ex. 2/T1/S1/p. 4

⁵ Ibid

⁶ 1-OEB Staff-1d

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 is not for ICM funding of individual projects as anticipated when the ACM Report was issued in 2014.⁷

The Council submits that under the established ICM/ACM policy Alectra has not satisfied the materiality criteria. Using the IPI when calculating the materiality threshold as required by the policy, for the Enersource RZ results in a threshold of \$67.7 million. Given the overall capital budget for the Enersource RZ of \$56.2 million, Alectra does not qualify for incremental capital amounts. Given the overall capital budget for the PowerStream RZ of \$117.6 million, Alectra does not qualify for incremental funding as this is below the materiality threshold.

The Council notes that the use of the geometric mean was raised in the 2023 proceeding. OEB Staff suggested that an alternative to using the IPI would be to calculate the materiality threshold using 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.⁸ In its Reply Argument Alectra submitted that “While OEB Staff comments on the impacts of inflation on the materiality threshold, ultimate OEB Staff concludes that there would be no material impact on the funding sought for either RZ in 2023, but there could be impacts on the requested 2024 funding. Those comments do not detract from OEB Staff’s submission that Alectra Utilities has appropriately calculated the relevant amounts for both 2023 and 2024. Regarding OEB Staff’s comments on the impacts of inflation for the requested 2024 funding, Alectra Utilities takes no position other than to comment that in its view amendments to ICM policy should be considered through a policy review process rather than as part of this proceeding⁹.

The OEB determined that, “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 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.”¹⁰

The Council agrees with what Alectra submitted in the last proceeding regarding ICM policy changes. ICM/ACM policy changes should be considered through a policy review process. Alectra has made several attempts to seek ICM/ACM funding through alternative approaches first through its M-Factor proposal (EB-2019-0018) and through its application for 2023 rates seeking multi-year approval for 2023 and 2024 ICM amounts. These were both rejected by the OEB.

⁷ Decision and Order, EB-2022-0013, dated November 17, 2022, p. 10

⁸ EB-2022-0013 Decision and Order, p. 8

⁹ EB-2022-0013, Alectra Reply Argument, p. 11

¹⁰ EB-2022-0013 Decision and Order, p. 9

The Council fully supports a comprehensive review of the OEB's ICM/ACM policy. This should be done through a generic proceeding, or in the alternative through a funded policy review process. It has been almost ten years since the policy was established and a review would allow for potential improvements creating an appropriate balance between ratepayer and shareholder interests.

On the basis of materiality Alectra's request for ICM funding should be rejected. The Council does not take issue with prudence or need.

To be clear the Council has no reason to disagree with OEB's conclusion in the previous proceeding with respect to prudence:

The OEB finds the 2023 cable program 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 on the current condition of the cable assets in both RZs. The cable programs should help to ensure the reliability and quality of service.¹¹

It is not a question of whether the cable program is prudent. Alectra has not demonstrated that it requires incremental funding to undertake the program. The Council notes that the OEB commented in the previous Decision that Alectra's capital planning and execution could be improved going forward. If the cable program is responding to an urgent need identified by Alectra it is up to Alectra to reprioritize its other programs and projects that may not be urgently required. That represents responsible utility planning.

As noted above Alectra has brought froward four of the projects that were formerly part of the previous 2023 application. Those projects were expected to be funded through base rates, given that the OEB reduced the 2023 ICM request to reflect this. If the OEB accepts Alectra's approach to inflation, these projects should not qualify for incremental funding.

CONCLUSION:

The OEB has an established ICM/ACM policy in place. Alectra has not met the materiality criteria as set out in that policy and therefore, does not qualify for ICM funding for 2024. The Council does, however support a wholesale review of the OEB's ICM/ACM policy where the OEB can consider all of the issues relevant to the policy including the application of an inflation factor in materiality threshold calculation. The Council also believes it would be appropriate to consider whether ICM requests for utilities like Alectra should be determined on a rate zone basis. The rates in Alectra's other rate zones may be sufficient to fund the capital required in the Enersource or PowerStream rate zones.

All of which is respectfully submitted.

¹¹ EB-2022-0018, Decision and Order, p. 16