Ontario Energy Board | Commission de l'énergie de l'Ontario

PARTIAL DECISION AND ORDER

EB-2019-0018

Alectra Utilities Corporation

Application for rates and other charges to be effective January 1, 2020

BEFORE: **Emad Elsayed**
Presiding Member

Lynne Anderson
Member

Michael Janigan
Member

January 30, 2020

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1. INTRODUCTION AND SUMMARY

Alectra Utilities Corporation (Alectra Utilities) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on May 28, 2019 under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act) seeking approval for changes to its electricity distribution rates to be effective January 1, 2020. Alectra Utilities included a proposal for additional capital funding (M-Factor) and a request to reverse the outcome of a prior OEB decision on capitalization policy.

Under section 78 of the OEB Act, a distributor must apply to the OEB to change the rates it charges its customers. This application covers each of the former rate zones of Enersource Hydro Mississauga Inc. (Enersource), PowerStream Inc. (PowerStream), Hydro One Brampton Networks Inc. (Brampton), Horizon Utilities Corporation (Horizon), and Guelph Hydro Electric System Inc. (Guelph).

Alectra Utilities serves approximately one million mostly residential and commercial electricity customers in its five rate zones. These five rate zones cover 17 communities which include the Cities of Hamilton and St. Catharines in the Horizon Utilities rate zone (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.

A distributor may choose one of three rate-setting options, which are explained in the *Handbook for Utility Rate Applications*.

Alectra Utilities' application is based on a Price Cap Incentive Rate-setting option (Price Cap IR). The Price Cap IR option involves a rebasing rate application followed by annual mechanistic price cap adjustments, based on inflation and the OEB's assessment of the distributor's efficiency. As part of its merger approval, Alectra Utilities was granted a 10-year deferred rebasing period for 2017 to 2026. The Price Cap IR option is applicable to each RZ during the deferred rebasing period once the terms of existing rate plans end.

In Procedural Order No. 1, the OEB determined that it would process Alectra Utilities' application in three streams, namely the IRM, M-Factor, and capitalization policy. On December 12, 2019, the OEB issued its Partial Decision and Interim Rate Order addressing the issues included in the IRM stream of this application.

This Partial Decision and Order (Partial Decision) relates to the M-Factor and capitalization policy elements of Alectra Utilities' application. In this Partial Decision, the OEB makes a number of findings, which include the following:

- The OEB denies Alectra Utilities' M-Factor proposal, including its proposed Capital Investment Variance Account (CIVA) and Externally Driven Capital Variance Account (EDCVA).
- The OEB adopts the Account 1576 approach[1] to the deferral accounts for the change in capitalization policy. The OEB finds that the disposition of the capitalization deferral accounts at the next rebasing is appropriate.
- The OEB is establishing a capitalization deferral account for the Guelph RZ on the same basis as the deferral accounts for the other RZs.
- The OEB accepts Alectra Utilities' approach to earnings sharing for the Horizon RZ for 2017 and 2018.
- The OEB accepts Alectra Utilities' proposal that no amounts are required to be recorded in the CIVA for the Horizon RZ.

[1] The term "Account 1576 approach" is explained and discussed in section 4.1 of this Partial Decision.

2. THE PROCESS

Notice of Alectra Utilities' application was issued on June 18, 2019. Association of Major Power Consumers in Ontario (AMPCO), Building Owners and Managers Association (BOMA), Consumers Council of Canada (CCC), Distributed Resource Coalition (DRC), Enbridge Gas Inc. (Enbridge), Energy Probe Research Foundation (Energy Probe), Power Workers' Union (PWU), School Energy Coalition (SEC), Max Aicher (North America) Ltd. and Max Aicher (North America) Bloom Mill (collectively, MANA) and Vulnerable Energy Consumers Coalition (VECC) requested intervenor status. AMPCO, BOMA, CCC, DRC, Energy Probe, SEC, MANA and VECC requested cost eligibility. The OEB approved AMPCO, BOMA, CCC, DRC, Energy Probe, PWU, SEC, MANA and VECC as intervenors. Enbridge's request for intervenor status was denied. The OEB approved cost eligibility, only in relation to the M-Factor and capitalization policy elements, for AMPCO, BOMA, CCC, DRC, Energy Probe, SEC, MANA and VECC.

The application was supported by pre-filed written evidence, related models and workforms. During the course of the proceeding, the applicant responded to interrogatories and, where required, updated and clarified the evidence.

A Partial Decision and Interim Rate Order, dealing with the IRM components of this application, was issued on December 12, 2019. This Partial Decision addresses the remaining two components: the M-Factor and the capitalization policy.

M-Factor Proposal

In Procedural Order No. 1 issued on July 9, 2019, among other things, the OEB set out the timeline for the procedural steps for the M-Factor stream of this application.

On August 7, 2019, Alectra Utilities made a presentation on its M-Factor proposal to the OEB and took questions from the OEB panel. The presentation was transcribed.

SEC filed its interrogatories on August 13, 2019. BOMA filed its interrogatories on August 15, 2019. AMPCO, CCC, DRC, MANA, PWU, VECC and OEB staff filed their interrogatories on August 16, 2019.[2] Alectra Utilities provided its responses to the interrogatories on September 13, 2019.

A technical conference on the M-Factor proposal was held on October 7 and 8, 2019. Alectra Utilities, AMPCO, BOMA, CCC, DRC, Energy Probe, PWU, SEC, VECC and

[2] Energy Probe's interrogatories on the M-Factor elements were filed together with its interrogatories on the IRM elements submitted on July 29, 2019.

OEB staff participated in the technical conference. Alectra Utilities filed responses to the technical conference undertakings on October 11, 2019.

An oral hearing on the M-Factor proposal began on October 15, 2019 and continued on October 17 and October 18, 2019. Alectra Utilities, AMPCO, BOMA, CCC, DRC, Energy Probe, PWU, SEC, VECC, OEB staff and OEB Panel participated in the oral hearing. Alectra Utilities filed responses to the oral hearing undertakings on October 23, 2019.

On November 1, 2019, Alectra Utilities filed an argument-in-chief on the M-Factor proposal.

Energy Probe and MANA filed submissions on the M-Factor proposal on November 14, 2019. DRC, PWU and OEB staff filed submissions on November 15, 2019. AMPCO, CCC and VECC filed submissions on November 18, 2019. SEC filed its submission on November 19, 2019.

Alectra Utilities filed its reply submission on the M-Factor proposal on November 29, 2019.

Capitalization Policy-related Issues

In Procedural Order No. 1 issued on July 9, 2019, among other things, the OEB expressed its preliminary view that Alectra Utilities' request to reverse the outcome of the OEB's decision to create the capitalization deferral accounts constitutes a motion to vary pursuant to Rule 40.02 of the OEB's Rules of Practice and Procedure. Before making a final determination, the OEB provided an opportunity for Alectra Utilities, intervenors, and OEB staff to provide submissions on preliminary questions related to this request.

On July 19, 2019, Alectra Utilities filed submissions on the preliminary questions regarding its capitalization policy related request.

On July 29, 2019, OEB staff, PWU, BOMA, VECC, SEC and Energy Probe filed their submissions on the preliminary questions. CCC filed its submission on July 30, 2019.

On August 9, 2019, Alectra Utilities filed a reply submission on the preliminary questions.

In its Decision and Order issued on September 5, 2019, the OEB found that Alectra Utilities' request can be characterized as a motion to vary the decision to establish the three capitalization deferral accounts and that the request does not meet the threshold test for such a motion. The OEB also established procedural steps to provide Alectra Utilities the opportunity to file additional evidence on the options for disposition of the capitalization deferral accounts, and for parties to submit interrogatories pertaining to the capitalization policy elements of the application.

On September 16, 2019, Alectra Utilities filed its submission in respect of the different options for disposition of the capitalization policy deferral accounts. OEB staff, SEC, BOMA, and Energy Probe filed their interrogatories on September 23, 2019. Alectra Utilities filed its interrogatory responses on October 7, 2019.

On October 17, 2019, the OEB issued Procedural Order No. 4, which provided for supplementary interrogatories on certain issues within the capitalization policy stream of the application. Procedural Order No. 4 also established a timeline for submissions from OEB staff, intervenors, and Alectra Utilities on the capitalization policy stream.

OEB staff filed supplemental interrogatories on October 24, 2019. Alectra Utilities provided its responses on October 31, 2019.

OEB staff, SEC, and VECC provided their submissions on the capitalization policy stream on November 14, 2019. Energy Probe, AMPCO, and CCC supported SEC's position on various aspects of the capitalization policy stream, within their respective submissions on the M-factor stream, filed on November 14, 2019 (Energy Probe) and November 18, 2019 (CCC and AMPCO).

Alectra Utilities filed its reply submission on the capitalization policy stream on November 28, 2019.

3. M-FACTOR

Alectra Utilities requested OEB approval of a new incremental capital funding mechanism called the MAADs-factor (M-Factor) and two associated variance accounts: the CIVA and EDCVA.[3] Alectra Utilities' M-Factor proposal is underpinned by a consolidated five-year Distribution System Plan (DSP) filed by Alectra Utilities as part of this application. Specifically, as revised through this proceeding, Alectra Utilities requested OEB approval of the following items:

- $265 million in incremental capital funding through the M-Factor over 2020-2024 to execute a total of 203 M-Factor projects. This is above and beyond what is in its base rates.
- Five years (2020-2024) of M-Factor rate riders (one set of rate riders per year, per RZ) to fund the revenue requirement associated with the $265 million.
- The CIVA for Alectra Utilities to record the calculated revenue requirement for the in-service additions associated with M-Factor projects and revenues collected from customers through the M-Factor rate riders, per RZ, per year, to be trued-up at the end of the DSP period or at Alectra Utilities' next rebasing.
- Approval for Alectra Utilities to also record in the CIVA the revenue requirement for any projects it considers unfunded through both its base rates and the M-Factor.

As part of the OEB's Decision and Order for Alectra Utilities' 2018 rate application, the OEB required Alectra Utilities to file a consolidated DSP with any Incremental Capital Module (ICM) application requesting rate changes for 2020 rates and beyond.[4] Alectra Utilities stated that it filed its five-year consolidated DSP as part of this 2020 rate application in accordance with the requirement set out by the OEB.

Through the process of preparing its DSP, Alectra Utilities identified a funding gap between the capital funded through its base rates as it continues through its ten-year period of deferred rebasing and what would be required to fully execute its DSP. To bridge this gap, Alectra Utilities requested incremental capital funding through, not the ICM, but the M-Factor.

In Alectra Utilities' view, limitations associated with the ICM, and the way the OEB has applied the ICM in past proceedings, have made the ICM mechanism insufficient to address its incremental capital needs and the funding gap it has identified. Particularly, Alectra Utilities felt that the ICM does not provide the flexibility or rate certainty to fund

[3] In its reply submission, Alectra Utilities withdrew its request for the EDCVA.
[4] EB-2017-0024, Decision and Order, April 5, 2018, page 2

its five-year DSP, and stated that the ICM causes unnecessary regulatory burden. In particular, Alectra Utilities noted its 2018 and 2019 rate proceedings were complicated and lengthy, caused in part by its ICM requests.[5]

To address these shortcomings, Alectra Utilities proposed the M-Factor, which it views as the most effective method to meet its capital needs. Under the M-Factor approach, Alectra Utilities used the OEB's ICM materiality threshold formula (with the 10% deadband) to calculate an aggregate materiality threshold across all of its RZs, across the five-year period of its DSP. By subtracting this aggregate amount from its total planned capital expenditures across the five-years of the DSP, Alectra Utilities calculated a $274 million funding gap that it considered unfunded through base rates. Alectra Utilities stated that it further leveraged its customer engagement results to refine its M-Factor request and arrive at the $265 million M-Factor request currently before the OEB. The difference between Alectra Utilities M-Factor approach and the ICM is that the M-Factor is an envelope approach seeking approval for an aggregate sum of incremental capital across five-years; as opposed to the ICM, which is for individual projects, and only for the rate year in which the project goes in-service. This arrangement would allow Alectra Utilities to reprioritize its M-Factor projects as it sees fit (Alectra Utilities designed the M-Factor to provide it with the flexibility of shifting the timing of projects and funds across RZs, but not introduce or substitute new projects).

For the M-Factor, Alectra Utilities retained the means test from the ICM, to ensure that it would not receive M-Factor funding in any year where its regulated return on equity (ROE) exceeds its deemed ROE by 300 basis points. Additionally, Alectra Utilities requested OEB approval of the CIVA, in which it proposed to record the revenue requirement related to all M-Factor project in-service additions and associated revenues for each RZ, for each year. At the end of the DSP period, or at the time of Alectra Utilities' next rebasing, Alectra Utilities proposed to true-up any variance between the revenue requirement of the M-Factor projects, and spending between RZs. The former is intended to hold customers whole if Alectra Utilities underspends, and vice versa if Alectra Utilities overspends;[6] the latter is to ensure there is no cross-subsidization between customers of different RZs.

During the oral hearing, Alectra Utilities informed the OEB that it had used incorrect billing determinants in its materiality threshold calculations and provided revised calculations. As a result of the revisions, the amount of capital considered by Alectra Utilities to be unfunded through base rates increased from $275 million to $370 million.[7] In its Argument-in-Chief (AiC), Alectra Utilities reiterated that it is only seeking the

[5] EB-2017-0024, EB-2018-0016
[6] If Alectra Utilities overspends, it has proposed that any recovery from customers be capped at a maximum of $9.3 million. This is further discussed below in the CIVA section.
[7] AiC page 5

original $265 million in M-Factor funding, but also made an additional request to record costs associated with any projects it considers unfunded through both base rates and the M-Factor in the CIVA. This would essentially be the gap between the M-Factor request of $265 million, and Alectra Utilities' revised funding gap of $370 million. Alectra Utilities proposed to dispose of any balances, subject to a prudence review before the OEB, at the end of the DSP period or at Alectra Utilities' next rebasing.

Alectra Utilities submitted that its M-Factor proposal is in accordance with the OEB's ICM policy,[8] MAADs policy[9] and general rate setting framework.[10] Further, Alectra Utilities submitted that applying to the OEB for approval of five-years of M-Factor funding would eliminate regulatory burden associated with the need to apply for ICMs annually in each rate year.

The parties to this proceeding made a variety of submissions on Alectra Utilities' request ranging from recommendations for the OEB to deny the M-Factor, revise the M-Factor, or approve the M-Factor. The sections below address the following matters:

- Just and Reasonable Rates
- OEB Policies
- Distribution System Plan
- Capital Investment Variance Account
- Externally Driven Capital Variance Account
- Sources of Incremental Capital Funding

The background and findings for the first three sections on the M-Factor proposal are provided first, followed by the findings for Alectra Utilities' requests for two new variance accounts. The last section provides the OEB's proposed next steps for Alectra Utilities.

Just and Reasonable Rates

Alectra Utilities stated, "The OEB is obligated by legislation to establish rates for Alectra Utilities that are in accordance with the 'just and reasonable' standard, and in doing so the courts have said that the OEB has broad discretion."[11] To this point, Alectra Utilities argued that if the OEB accepted its DSP without also approving the incremental capital

[8] ICM policy refers to EB-2014-0219, *Report of the OEB: New Policy Options for Funding of Capital Investments: The Advanced Capital Module*, September 18, 2014 (Funding of Capital Report) and EB-2014-0219, *Report of the OEB: New Policy Options for the Funding of capital Investments: Supplement Report*, January 22, 2016 (Supplemental Report) (collectively referred to as the Funding of Capital policy)
[9] MAAD policy refers to EB-2014-0138, *Report of the Board: Rate-Making Associated with Distributor Consolidation*, March 26, 2015 (MAADs Report) and *Handbook for Electricity Distributor and Transmitter Consolidation*, January 19, 2016 (MAADs Handbook)
[10] See the *Handbook for Utility Rate Applications*, October 13, 2016
[11] AiC page 7

funding necessary to execute the investments contemplated by the DSP, then the resulting rates would not meet the just and reasonable standard.

Alectra Utilities referenced the Supreme Court of Canada's (SCC) decision in *Ontario (Energy Board) v. Ontario Power Generation Inc.* (OPG case) where the court explained just and reasonable rates as follows:

> …
>
> [J]ust and reasonable rates must be those that ensure consumers are paying what the Board expects it to cost to efficiently provide the services they receive, taking account of both operating and capital costs. In that way, consumers may be assured that, overall, they are paying no more than what is necessary for the service they receive, and utilities may be assured of an opportunity to earn a fair return for providing those services.[12]
>
> …
>
> This means that the utility must, over the long run, be given the opportunity to recover, through the rates it is permitted to charge, its operating and capital costs ("capital costs" in this sense refers to all costs associated with the utility's invested capital) … [and that a utility's cost of capital][13] represents the amount investors require by way of return on their investment in order to justify an investment in the utility. The required return is one that is equivalent to what they could earn from an investment of comparable risk. Over the long run, unless a regulated utility is allowed to earn its cost of capital, further investment will be discouraged, and it will be unable to expand its operations or even maintain existing ones. This will harm not only its shareholders, but also its customers.[14]

Should the OEB deny Alectra Utilities' request for incremental funding, Alectra Utilities contended it would be left with only two choices: forego unfunded capital investments in the DSP by deferring the projects, or proceed with the projects without incremental funding, thereby reducing its shareholders' rate of return. Alectra Utilities argued that both options are unacceptable because the former would result in foregoing necessary investments in its distribution system and adversely impact customers, and the latter would deprive the utility of the opportunity to earn a fair return, contrary to the just and reasonable standard.

[12] *Ontario (Energy Board) v. Ontario Power Generation Inc.,* 2015 SCC 44, [2015] 2 S.C.R. 147, para. 20
[13] This edit to the quote was originally made by Alectra Utilities, see AiC page 10
[14] *Ontario (Energy Board) v. Ontario Power Generation Inc.,* 2015 SCC 44, [2015] 2 S.C.R. 147, paras. 15-16

Alectra Utilities stated that the OEB, under section 78(3) of the OEB Act, has broad discretion in how it sets just and reasonable rates. The OEB, Alectra Utilities submitted, is not bound by policies or mechanisms, such as the ICM policy, and can choose to implement an ICM, M-Factor, or any other mechanism, so long as the resulting rates are in accordance with the just and reasonable standard. Alectra Utilities reiterated that its DSP is comprehensive, appropriate and to the benefit of its customers and therefore should be funded by the OEB in accordance with the just and reasonable standard.

PWU agreed with Alectra Utilities and supported the M-Factor proposal as filed.

DRC supported the Distributed Energy Resources (DER)-related investments in the DSP and submitted that these DER elements of the M-Factor proposal should be approved.

CCC, Energy Probe, SEC, VECC and OEB staff submitted that the M-Factor proposal would not result in just and reasonable rates.

Several intervenor groups and OEB staff submitted that Alectra Utilities had the opportunity to select a shorter deferred rebasing period, but made a conscious decision to opt for the longer ten-year period. These parties noted that a longer deferred rebasing period comes with inherent risks that should be balanced against the synergy savings of the merger. Further, some intervenor groups submitted that if Alectra Utilities seeks to reduce the risk associated with deferred rebasing through the M-Factor, there should be commensurate benefits to the customer, possibly in the form of an enhanced earnings sharing mechanism (ESM) or lowered ROE for Alectra Utilities.

Several intervenor groups and OEB staff took the view that Alectra Utilities' M-Factor proposal amounted to what is essentially a capital pass-through under a Custom IR plan. These parties submitted that this is inappropriate in light of the fact that the MAADs policy specifies that Alectra Utilities should remain under the Price Cap IR during the deferred rebasing period it selected. These parties also argued that it is inappropriate for Alectra Utilities to ask customers to fully fund the M-Factor proposal, while at the same time keeping the entirety of the merger savings.

VECC agreed that the OEB, in setting just and reasonable rates, is not bound by the ICM policy or MAADs policy. VECC submitted that one reasonable approach the OEB could take is to order Alectra Utilities to file a cost-based rebasing application to ensure it is making prudent capital investments at reasonable cost. VECC also argued that, since Alectra Utilities has yet to spend the capital it is requesting through the M-Factor, there is no infringement of the fair return standard if the M-Factor request is denied.

VECC noted that credit rating agencies had expressed no concern with respect to Alectra Utilities' ability to finance capital spending. VECC also argued that evidence on the record suggests Alectra Utilities' own business planning was based on a lower level of expected capital investment than what has been put before the OEB in this application, and does not demonstrate a significant need as has been argued by Alectra Utilities. Furthermore, even if Alectra Utilities required incremental capital funding, VECC submitted the important distinction is that the fair return standard provides Alectra Utilities with the opportunity to a fair return, but does not make Alectra Utilities entitled to one. VECC submitted that, over the long run, there may be a deviation from the expected rate of return, but a low return does not by itself mean unjust or unreasonable rates.

OEB staff agreed with Alectra Utilities that the OEB has broad discretion to set just and reasonable rates. In this circumstance however, OEB staff submitted that the OEB should not deviate from established capital funding policy (i.e. the ICM policy). OEB staff noted that just and reasonable rates must consider not only a distributor's opportunity to a fair return, but must also ensure that customers are "paying no more than what is necessary for the service they receive."[15]

OEB staff submitted that it is not uncommon for utilities in Ontario to incur some amount of "unfunded" capital in the course of the incentive rate-setting term, and that utilities can be expected to manage such costs without having it adversely or materially impacting the utility over the long-term. Furthermore, in OEB staff's view, a significant amount of Alectra Utilities' requested incremental funding would not even qualify for ICM treatment.

SEC submitted that Alectra Utilities' interpretation of the SCC's ruling is incorrect. SEC stated that the correct interpretation of the SCC's ruling is that the OEB can disallow costs even if the results are that the utility would not earn a fair return in the near term. For just and reasonable rates, SEC pointed to the following excerpt of the SCC's ruling: "[w]here appropriate, to the extent that the utility was unable to reduce its costs, the total burden of such costs may be moderated or shared as between the utility's shareholders and the consumers."[16] In SEC's view, the dollar for dollar recovery of a utility's costs is not the only consideration for determining whether rates are just and reasonable. As shown by the SCC's ruling, SEC argued that the OEB can take a variety of factors into consideration in setting rates, not just the costs to the utility.

SEC submitted that the M-Factor proposal amounts to a capital pass-through for Alectra Utilities, which the OEB is not obligated to provide in this IRM application, or even if this were a cost of service application. SEC argued that Alectra Utilities' M-Factor proposal, as a capital pass-through, is fundamentally incompatible with the OEB's IRM

[15] *Ontario (Energy Board) v. Ontario Power Generation Inc.,* 2015 SCC 44, [2015] 2 S.C.R. 147, para. 20
[16] *Ontario (Energy Board) v. Ontario Power Generation Inc.,* 2015 SCC 44, [2015] 2 S.C.R. 147, para. 112

framework. SEC noted that, under the Price Cap IR, a utility's rates are initially set on a cost of service basis. During subsequent IRM years, a utility's rates are decoupled from costs to incent productivity. SEC submitted the M-Factor, if approved, would undermine the basis of the IRM framework, which is to decouple costs from rates. SEC noted the ICM as an exception to the framework, with limited circumstances in which it can be applied. For these reasons, SEC submitted that the M-Factor proposal should be denied.

In reply, Alectra Utilities submitted that SEC is incorrect in its interpretation of the law. Alectra Utilities reiterated that the OEB cannot ignore reasonable and prudent costs and not provide recovery for such costs when establishing just and reasonable rates. Alectra Utilities also did not agree with SEC's assertion that the M-Factor amounts to a capital pass-through, instead submitting that it is requesting the OEB approve its DSP by finding its planned capital expenditures reasonable, and provide for incremental capital funding through just and reasonable rates.

With respect to the OPG case, Alectra Utilities submitted that SEC had mischaracterized the nature of the case before the SCC. In Alectra Utilities' view, SEC's submission was predicated on the notion that the OPG case was related to the OEB's denial of recovery for forecast remuneration costs. Alectra Utilities' submitted that, on the contrary, the case before the SCC was in fact on the OEB's denial of recovery for committed costs relating to a binding collective bargaining agreement and whether it was appropriate for the OEB to not use the "no-hindsight" principle to reaching its findings. Therefore, the SCC's ruling, in Alectra Utilities' view, does not mean the OEB could deny prudent forecasted costs, but rather that the OEB is governed by its regulatory framework, which provides it with wide latitude in choosing the methodology it uses in setting just and reasonable rates.

Alectra Utilities did agree with SEC that, for a utility under IRM, rates are decoupled from costs. However, Alectra Utilities submitted that this principle is premised on the utility being able to operate on existing rates, which were previously assessed as just and reasonable at the time they were approved. Therefore, Alectra Utilities argued that just and reasonable rates and the fair return standard are inherent in IRM. While SEC considers the ICM to be an exception to the IRM framework, Alectra Utilities submitted the important fact remains that the ICM is underpinned by the requirement to establish just and reasonable rates. In the same vein, Alectra Utilities submitted that its M-Factor proposal is, like the ICM, a mechanism to provide it with incremental capital funding and to establish just and reasonable rates.

Regarding VECC's submission, Alectra Utilities submitted that VECC had misconstrued the fair return standard by equating fair returns (at the time rates are set) with financial returns that the utility earns. Alectra Utilities stated, "In VECC's view, Alectra Utilities would have to show that its inability to earn its approved rate of return or its financial would be indicative of a [sic] whether it would earn a fair return."[17] Alectra Utilities submitted that VECC had taken the OPG case out of context. While returns could vary in the short run, due to operational reasons such as higher or lower electricity consumption, that does not mean, in Alectra Utilities' view, the OEB could disallow funding for any approved costs under the fair return standard.

OEB Policies

The OEB's *Renewed Regulatory Framework for Electricity* (RRFE) established three incentive rate-setting options for electricity distributors.[18] The OEB's *Handbook to Utility Rate Applications* describes the differences among each option, which are summarized as follows:[19]

- Price Cap IR – Rates are set through a cost of service process for the first year and the rates for the following four years are adjusted using a formula that includes an industry-specific inflation factor and two factors for productivity.
- Custom IR – Rates are set for five years considering a five-year forecast of a utility's costs and sales volumes. This method is intended to be customized to fit the specific utility's circumstances, but expected productivity gains will be explicitly included in the rate adjustment mechanism.
- Annual IR Index – Rates are subjected to the same formula as the Price Cap IR formula; however utilities are required to apply the highest stretch factor. Utilities under the Annual IR Index are not required to rebase periodically through cost of service.

The RRFE states that the ICM remains available to distributors under Price Cap IR to address any incremental capital investment needs that may arise during the IR term.[20] The ICM must meet a number of criteria set out in the Funding of Capital policy. Specifically, capital projects must meet a project-specific materiality threshold, be discrete, and not be part of typical annual capital programs.[21] In addition, the ICM request must be for an amount that exceeds an OEB-defined materiality threshold and clearly have a significant influence on the operation of the distributor.[22]

[17] Reply submission, page 7
[18] *Report of the Board: Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach (RRFE)*, October 18, 2012
[19] *Handbook for Utility Rate Applications*, October 13, 2016, pages 23-24
[20] RRFE, pages 18, 20, 22
[21] Funding of Capital Report, pages 16-17
[22] Ibid.

In accordance with the OEB's MAADs policy, merged utilities may opt for a deferred rebasing period of up to 10 years, during which time merger savings accrue to the shareholder.[23] In the deferred rebasing period, the merged utility is under Price Cap IR once the term of existing rate plans end,[24] and is eligible to use an ICM to request incremental funding for capital for discrete projects.[25] Consistent with the MAADs policy, all of Alectra Utilities' RZs have now transitioned to Price Cap IR and are eligible to apply for ICM funding.

Alectra Utilities stated that the M-Factor is a variation of, or enhancement to, the ICM and is consistent with the OEB's policies. In Alectra Utilities' view, the ICM does not provide it with sufficient funding because the ICM is only available on an annual basis, and because the OEB has, in prior decisions, denied Alectra Utilities' ICM recovery for certain projects. In particular, Alectra Utilities took issue with the OEB's application of the ICM project-specific materiality test and application of ICM policy that disallows ICM funding for "typical annual capital programs."[26]

Alectra Utilities argued that, under the OEB's MAADs policy, it should be allowed to recover incremental capital for any project that is "normal and expected," even if those projects do not meet the project-specific materiality test, or are part of "typical annual capital programs." Alectra Utilities relied in large part on the *Report of the Board Rate-Making Associated with Distributor Consolidation* (MAADs Report) and pointed specifically to a section of the MAADs Report that states "… a distributor may now apply for an ICM that includes normal and expected capital investments."[27] This statement, in Alectra Utilities' view, meant that the OEB was providing separate ICM criteria for post-consolidation utilities. One set of ICM criteria would apply to normal utilities not on deferred rebasing, and a different set of ICM criteria would apply to post-consolidation utilities on deferred rebasing. Under Alectra Utilities' interpretation, the key difference would be that post-consolidation utilities could apply for incremental funding for any "normal and expected" projects, even if such projects would not normally be eligible for ICM funding because of the "project-specific materiality test" or the "typical annual capital programs" criterion.

Alectra Utilities also pointed to the fact that the ICM is only available on an annual basis. Applying for ICM funding in each individual rate year, Alectra Utilities submitted, is not conducive to the execution of its DSP, nor is it efficient from a regulatory standpoint.

[23] Unless earnings are 300 basis points higher than the OEB-approved return on equity (ROE), at which point excess earnings are shared 50/50 with ratepayers, or subject to any other earning sharing mechanism as approved by the OEB. This applies to any deferred rebasing period beyond five years.
[24] Unless the distributor was on Annual IR Index, in which case it will remain on the Annual IR Index until it rebases.
[25] MAADs Handbook, page 17
[26] See Funding of Capital Report, page 13 regarding "typical annual capital programs."
[27] MAADs Report, page 9

Under the M-Factor, Alectra Utilities would have approved incremental funding for five years under an envelope approach. Any necessary true-ups would be done through the CIVA, which is further discussed below in the CIVA section. During the proceeding, Alectra Utilities also revised its application to use a five-year historical average inflation factor for its materiality threshold calculations, rather than the most recent (i.e. 2020) inflation factor available as per the OEB's ICM policy. Alectra Utilities submitted that a five-year historical average of the inflation factor would be more consistent with the five years of historical information in its DSP.

In total, Alectra Utilities requested OEB approval for $265 million over five-years in M-Factor funding to execute a total of 203 M-Factor projects. Alectra Utilities also requested OEB approval to record additional amounts in its CIVA for any project unfunded through both the M-Factor and base rates (further discussed below in the CIVA section).

PWU and DRC took no issue with Alectra Utilities' M-Factor proposal.

All other intervenor groups and OEB staff opposed Alectra Utilities' M-Factor proposal and submitted that Alectra Utilities' interpretation of the OEB's policies is incorrect. Most parties submitted that the "normal and expected" language in the MAADs Report was simply clarifying that a distributor can apply for capital funding so long as it meets the ICM requirements. This clarification was made specifically to highlight the changes from the ICM policy that existed prior to the *Report of the OEB: New Policy Options for Funding of Capital Investments: The Advanced Capital Module* (Funding of Capital Report), which had limited ICM funding to extraordinary and unanticipated capital investments. Some parties submitted that the OEB, by referring to "normal and expected," was referring to the fact that the OEB, in the Funding of Capital Report, had eliminated the discretionary criterion and extended the availability of the ICM to projects that are anticipated or expected.

Most parties also submitted that the OEB's *Handbook for Electricity Distributor and Transmitter Consolidation* (MAADs handbook), issued after the MAADs Report, reaffirmed that the ICM policy for post-consolidation utilities remained unchanged from the OEB's general ICM policy.

Some intervenor groups and OEB staff submitted that Alectra Utilities' current interpretation of the ICM policy is inconsistent with Alectra Utilities' past submissions in its 2018 and 2019 rate applications and its 2018 Guelph MAADs application. Some intervenor groups noted that, despite having certain ICM requests disallowed in the prior two rate applications, Alectra Utilities had not appealed the OEB's decisions.

Most parties submitted that Alectra Utilities' M-Factor proposal circumvents the OEB's ICM policy and essentially amounted to a Custom IR, but without having to rebase rates. These parties took the view that this would be counter to the OEB's MAADs policy, which specifies that utilities on deferred rebasing must be on either Price Cap IR or Annual IR.

Most parties submitted that it is unclear in Alectra Utilities' proposal the distinction between an “M-Factor project” versus a “base rate project.” Despite Alectra Utilities' assertions that all of its M-Factor projects would be eligible for ICM funding, most intervenor groups and OEB staff submitted this is not the case. Parties pointed out that many of the proposed M-Factor projects are too insignificant in comparison to Alectra Utilities' overall capital budget to pass the project-specific materiality threshold test and that many projects are “typical annual type programs” that would not be eligible for ICM funding. By using an envelope approach, rather than applying for individual projects through the ICM, parties argued that Alectra Utilities is essentially requesting a capital top-up.

Some intervenor groups submitted that, if the OEB revisits its ICM policy in approving the M-Factor, then it should also reconsider the MAADs policy that allows the utility to keep all merger benefits during the deferred rebasing period. Parties suggested that it would be reasonable to balance Alectra Utilities' M-Factor capital spending with some of the merger savings. OEB staff noted that Alectra Utilities would have fully recovered transition and transaction costs associated with the merger by the end of 2019.

Energy Probe submitted that Alectra Utilities had mischaracterized why its approved ICM funding in 2018 and 2019 was lower than what it had requested. Energy Probe submitted that Alectra Utilities' past ICM funding was reduced not because the OEB erred in its decisions, but because Alectra Utilities failed to put before the OEB projects that would meet the ICM criteria, and would therefore merit approval.

SEC, Energy Probe and BOMA submitted that approval of the M-Factor would set a bad precedent for other utilities. They argued that it would in effect allow any utility to request full recovery of incremental capital without regard to the OEB's existing ICM policy.

SEC raised concerns that Alectra Utilities increased pace of capital spending under the M-Factor would mean that Alectra Utilities would have spent all of the merger benefits by the end of the deferred rebasing period, with no merger savings left for customers. SEC further submitted that the M-Factor is a cost of service concept, in that it is based on the principle that the entire DSP should be recovered through rates. In SEC's view, this is inappropriate during a Price Cap IR term, where a utility is expected to manage within its means and with annual Price Cap IR adjustments. SEC submitted that this is especially true under the OEB's MAADs policy, which has the intent of limiting spending within a Price Cap envelope during deferred rebasing so that the utility does not spend all of the merger savings before the end of the deferred rebasing period.

OEB staff submitted that any incremental funding request (ICM, M-Factor or otherwise) should meet the discrete criteria of the ICM policy, and that many of the M-Factor projects currently before the OEB do not satisfy this criteria. OEB staff also noted that the OEB has consistently applied the project-specific materiality threshold test in other proceedings involving ICMs and submitted that it should continue to apply for Alectra Utilities. For greater clarity on ICM eligibility, OEB staff suggested that the OEB set an explicit project-specific materiality threshold for Alectra Utilities at $2 million for any future ICM requests. OEB staff further submitted that the inflation factor should be set at the most recently available inflation factor, which is 2% for the 2020 rate year. OEB staff submitted that there is no reason to deviate from the OEB's ICM policy and use a five-year historical average of inflation factors.

In reply, Alectra Utilities submitted that the views taken by the intervenor groups and OEB staff are incorrect. Alectra Utilities pointed out that OEB staff had issued a discussion paper prior to the release of the MAADs Report detailing the consultation process that had occurred for the OEB's MAADs policies. In the discussion paper, OEB staff noted concerns raised during the consultations on the ability of distributors to operate over an extended deferred rebasing period without being able to incorporate "normal capital expenditures" into rate base. In Alectra Utilities' view, the MAADs Report laid out further clarification regarding the ICM in response to these specific concerns. Particularly, Alectra Utilities submitted that the MAADs Report provided a separate set of ICM criteria for post-consolidation distributors to remove the barrier to distributor consolidations (i.e. incremental funding for "normal capital expenditures"). Alectra Utilities also stated that the OEB's MAADs Handbook does not point to the Funding of Capital Report for policies on consolidated utilities.

Alectra Utilities reiterated that its M-Factor proposal is in accordance with the OEB's MAADs policy and addresses shortfalls associated with the ICM. In particular, Alectra Utilities does not view the ICM as sufficient to fund a five-year DSP. In Alectra Utilities' view, its DSP represents the needs of its customers and should therefore be fully funded. It would not result in just and reasonable rates, Alectra Utilities argued, if its shareholders are asked to fund the DSP in the absence of rate relief. Alectra Utilities also submitted that using synergy savings to fund the DSP would be inconsistent with the OEB's MAADs policy framework.

Alectra Utilities submitted that the M-Factor is not a capital top-up or a Custom IR as some parties had suggested. Alectra Utilities noted that a 10% deadband is embedded in its materiality threshold calculations, and that it is not rebasing as would be necessary under a Custom IR. Alectra Utilities also argued that the project-specific materiality threshold should not apply as all the proposed M-Factor projects are prudent, and material in the implementation of the DSP as a whole.

Distribution System Plan

Alectra Utilities filed a five-year (2020-2024) consolidated DSP covering its five RZs in support of its M-Factor application. Alectra Utilities noted that it is the first utility to file a consolidated and integrated DSP following a MAADs transaction.

As part of preparing the DSP, Alectra Utilities retained Innovative Research Group to conduct customer engagement on its behalf across all of its RZs. The customer engagement allowed customers to provide their feedback and preferences on the level of Alectra Utilities' proposed capital spending and was conducted through two phases in 2018 and 2019. Alectra Utilities stated that the capital expenditures contemplated in its DSP reflect the customer engagement and are reasonable, necessary and in the interest of its customers.

PWU submitted that Alectra Utilities' DSP is reasonable and Alectra Utilities should be provided the funding to execute it. DRC submitted that Alectra Utilities' DSP contains several DER-related capital expenditures that may be beneficial to customers.

Other intervenor groups and OEB staff submitted on a number of issues related to the DSP and customer engagement. Most parties argued that Alectra Utilities has not provided sufficient evidence to justify the level of capital spending proposed in its DSP, and that Alectra Utilities has not appropriately paced its capital spending.

Most intervenor groups and OEB staff also submitted that the OEB should either give Alectra Utilities' customer engagement less weight due to its shortcomings, or give it no bearing at all. OEB staff submitted that the customer engagement, while extensive, did not fully reflect the wants and needs of customers, and did not provide customers a chance to weigh in on Alectra Utilities' new request to record additional amounts in the CIVA.[28] In particular, OEB staff and some intervenor groups noted that Alectra Utilities chose an accelerated pace for its underground infrastructure renewal investments despite customer feedback opting for a slower pace. Additionally, some intervenor groups submitted that the customer engagement materials contained misleading or suggestive language, and did not provide sufficient information for customers to make an informed decision.

In reply, Alectra Utilities submitted that its customer engagement was robust, extensive and methodical. Alectra Utilities stated that it presented customers with the best

[28] Alectra Utilities made the request to record additional amounts in the CIVA in its AiC, which is discussed in the CIVA section below.

information available, and in a way that was accurate, appropriate and in accordance with past practices. Alectra Utilities reiterated that its DSP reflects customer choices. With regard to the pacing for underground infrastructure renewal, Alectra Utilities submitted that the evidence provided in its DSP demonstrates that an accelerated level of capital spending in underground infrastructure renewal is required to address declining reliability.

Alectra Utilities submitted that the reliability data provided in its DSP demonstrates that increased spending is needed in order maintain the distribution system and address declining reliability. Contrary to some intervenor groups and OEB staff submissions, Alectra Utilities submitted that its proposed level of capital spending is not excessive, and is in fact quite modest in light of the condition of its assets.

Findings

The OEB denies Alectra Utilities' M-Factor proposal, including its proposed CIVA and EDCVA, for the following reasons:

- The M-Factor proposal is inconsistent with the OEB's rate-setting policies and MAADs policy and the deviation from policies is not warranted
- The M-Factor proposal does not produce just and reasonable rates
- The methodology utilized to seek customer preferences does not fully support the M-Factor

Inconsistent with OEB's Rate-setting Policies and MAADs Policy

When Alectra Utilities applied for approval of its MAADs transaction, it elected a 10-year deferred rebasing period, proposed an ESM for years six to ten, and indicated that it would apply for ICM relief in each year of the rate plan period. During the deferred rebasing period, Alectra Utilities is allowed to keep all merger savings unless earnings are 300 basis points above the OEB-approved ROE, at which point excess earnings are shared 50/50 between Alectra Utilities and its customers.

Alectra Utilities' proposed M-Factor approach includes about 200 different sized projects, many of which are multi-year projects with no project-level threshold applied. In essence, the M-Factor proposal is a hybrid between a Custom IR application and an IRM application, but lacks the scrutiny and ratepayer protection associated with a Custom IR application. Alectra Utilities is requesting approval of a capital envelope with complete flexibility in reallocating funds for the projects to be executed within that envelope, with no consideration as to which of these projects meet the threshold required in an ICM scenario. The ICM framework does not contemplate flexibility in spending within an approved capital envelope on ICM projects. The M-Factor proposal simply rejects the idea that a utility has a responsibility to manage its costs within the envelope provided by the Price Cap formula.

The OEB agrees with the various parties that Alectra Utilities is misguided in its interpretation of the existing OEB policy concerning the ICM funding criteria applicable to consolidated utilities. The OEB rejects Alectra Utilities' submission that these criteria are somehow different for consolidated utilities than for all others – a conclusion arising from the expectation of funding for all "normal and expected capital investments."[29] This statement in the MAADs Report was simply a clarification that a distributor can apply for capital funding that meets the ICM criteria of need, prudence and materiality under the new criteria set out in the Funding of Capital Report. This was not setting a new MAADs ICM condition. The Funding of Capital Report was issued in 2014.[30] This Report clarified that projects for an ICM did not have to be unanticipated, and the requirement for ICM projects to be non-discretionary was eliminated. These amendments meant that many more kinds of capital projects could be eligible for incremental capital funding through an Advanced Capital Module (ACM) or ICM during an IRM term than had previously been permitted. The OEB concludes that this enhancement was the reason for the reference to ICMs in the MAADs Report. Furthermore, at approximately the same time that the MAADs Handbook was issued in 2016,[31] the OEB also issued the Supplemental Report that reduced the deadband used in the materiality threshold formula from 20% to 10% for an ICM. This amendment meant that more capital projects would fit within the eligibility criteria. The OEB concludes that these revised policies for the funding of capital apply to all electricity distributors regardless of whether they are the subject of a merger or not.

Alectra Utilities' assumption is that, if the OEB approves the DSP, then funding in rates must be provided in order to provide for an opportunity to earn a fair return. In Alectra Utilities' view, this applies even for incremental costs during an IRM period.

This assumption is based on a clear misunderstanding of how DSPs are used by the OEB.

The OEB does not approve DSPs. DSPs are required by the OEB as a planning tool to demonstrate that the resulting investment plan is based on solid principles of prioritization and optimization. The OEB uses DSPs to inform the rate-setting process of the proposed investment plan. The reason that the OEB initially required Alectra Utilities to file a consolidated DSP was to support any ICM application requesting rate changes

[29] Reply submission, pages 13-15
[30] September 18, 2014
[31] The MAADs Handbook was issued on January 19, 2016 and the Supplemental Report was issued on January 22, 2016.

for 2020 rates and beyond. This requirement was intended to demonstrate that Alectra Utilities had considered the integrated nature of the new utility in its planning and for Alectra Utilities to provide an optimized capital plan. The OEB also recognized that the value of Alectra Utilities' predecessor utilities' DSPs will have diminished long before the 10-year deferral period has ended.

If Alectra Utilities' M-Factor proposal is approved, it would be open to any utility to seek incremental capital funding on an envelope basis prior to rebasing. This would defeat the purpose of setting up those different rate-setting mechanisms which are intended to provide an appropriate balance between ratepayer protection and the utility's ability to earn a fair return. Alectra Utilities' M-Factor proposal seeks to realize the benefits of what amounts to be a Custom IR application proposing to fund most of its capital budget, without having to rebase and forego the merger savings from its post-consolidation 10-year deferred rebasing, and without all of the required elements of a Custom IR application.[32] For all of the OEB's rate-setting options, utilities are expected to demonstrate ongoing continuous improvement in their productivity and cost performance while delivering on system reliability and quality objectives. For a Custom IR application, there must be explicit financial incentives for continuous improvement and cost control targets. Alectra Utilities' application did not address all of these requirements for a Custom IR application.

In its reply submission, Alectra Utilities referred to statements by the OEB that, in this proceeding, the OEB is "not establishing a generally applicable framework for incremental capital expenditures and that the proposal would be reviewed only in the context of Alectra Utilities' unique circumstances."[33]

The OEB establishes its rate-setting options considering all of its objectives. Distributors operate within an environment with similar risks and under similar regulatory rules and guidelines. Alectra Utilities' M-Factor proposal does not reconcile with any of the three rate-setting options that apply to all Ontario distributors, and is inconsistent with the language and intent of the OEB's rate-setting policies and MAADs policy. The OEB reviews each application based on its specific, unique circumstances - a review that is informed by the OEB's policies and associated filing requirements. The OEB acknowledges that it has discretion to deviate from the OEB's established policies in establishing rates. However, in this case, the OEB does not believe that it is warranted to do so. The challenges cited by Alectra Utilities are not unique to Alectra Utilities. For example, issues related to underground distribution assets, wood poles or adverse weather conditions are common among distributors, and are not unique to Alectra

[32] Specific considerations for a Custom IR application are set out in the Handbook for Utility Rate Applications, pages 25-28
[33] Reply submission, page 26

Utilities. Moreover, as discussed below, the M-Factor proposal does not result in just and reasonable rates nor is it justified by the customer engagement process.

Does not Produce Just and Reasonable Rates

The OEB finds that it would be both unjust and unreasonable to expect ratepayers to fund virtually all of the “unfunded” capital costs in the DSP, while permitting Alectra Utilities’ shareholders to receive all of the merger related savings until its next rebasing.

According to the MAADs policy, shareholders are allowed to keep the net savings from a merger for a set time period during which the utility is expected to manage its costs (capital and operating) out of existing rates, subject to annual inflationary increases and incremental capital funding available under ICM/ACM. It would not be just and reasonable that ratepayers should pay for an accelerated capital program as proposed by Alectra Utilities in this case, particularly when rates have not been adjusted for cost savings related to the merger.

For a long deferral period, the increased risk of potential need for more capital spending than originally expected is to be balanced against the opportunity to earn increased shareholder returns through the retention of savings from synergies arising from the merger until rebasing. The proposed capital spending associated with the M-Factor reduces or eliminates that risk while retaining the potential benefit of the synergy savings.

Approving the M-Factor as proposed by Alectra Utilities would also remove incentives for the utility to pursue capital efficiencies (e.g. completing more work with the same budget) during the deferred rebasing period. Alectra Utilities basically presented two options for executing its DSP; either through the M-Factor proposal or by reducing its shareholders’ rate of return. 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.

The Methodology Utilized to Seek Customer Preference Does Not Fully Support the M-Factor

The OEB acknowledges that the customer engagement process utilized by Innovative Research Group was extensive. However, the OEB finds that customer preferences expressed in the consultation process were not always reflected in the final investment plan. One example is Alectra Utilities’ decision to accelerate investments in its underground distribution system, which is one of the largest increases in forecast capital spending, in spite of feedback from the majority of customers that the system rehabilitation should be maintained at a slower pace. In addition, the OEB agrees with suggestions by some parties that some of the questions asked were worded in a suggestive or leading fashion. For example, using terms such as “recommended” may lead respondents to believe that this is a better option. In addition, the questions did not explicitly state the incremental impact of the M-Factor and the amount being sought in additional capital.

In the OEB’s view, the results of the customer engagement exercise seem to suggest that, at the highest level, most customers are satisfied with the status quo in terms of reliability and that their top concern is price. This does not provide a convincing justification for departing from the parameters of the MAADs policy framework by funding higher levels of capital expenditures from the DSP through increased rates.

The OEB gives limited weight to Alectra Utilities’ conclusions regarding customer preferences in determining Alectra Utilities’ proposed capital expenditures.

Capital Investment Variance Account

Alectra Utilities requested the OEB approve its proposed CIVA along with its M-Factor proposal. The purpose of the account is to capture any variance between the actual M-Factor investments (i.e. capital additions) in each rate year and each RZ, and the actual revenue requirement for its 203 M-Factor projects placed in service during the 2020-2024 period. The variances to be recorded in the CIVA would be variances attributable to work being accelerated, deferred or re-prioritized among RZs, variances in actual versus forecast costs of execution and variances in the scope of individual M-Factor projects that may be necessary.

During the Oral Hearing, Alectra Utilities informed the OEB that it had made a mistake using incorrect billing determinants in its M-Factor materiality threshold calculations. As a result of the revised calculations, Alectra Utilities stated that the amount of capital unfunded through its base rates increased from $275 million to $370 million. In its AiC, Alectra Utilities reiterated that its M-Factor proposal would remain at $265 million, but requested to also record in the CIVA the amount of capital unfunded by both base rates and its M-Factor proposal (i.e. $370 million less $275 million).

DRC and PWU supported Alectra Utilities’ CIVA proposal as part of its M-Factor request.

Most other parties took the view that the CIVA is only required if the M-Factor is approved, and should be denied if the M-Factor is denied.

In reply, Alectra Utilities agreed that the CIVA would not be appropriate if its M-Factor proposal is denied.

Findings

The OEB finds that, given that the OEB is not approving Alectra Utilities' M-Factor proposal, the proposed CIVA is not required.

Externally Driven Capital Variance Account

Alectra Utilities originally requested approval to establish the EDCVA to capture the difference between the revenue requirement associated with externally driven capital expenditures (related to regional transit projects and capital works required by road authorities) as forecasted in the DSP, and the actual revenue requirement for in-service additions associated with such projects in the same period. This includes changes in scope and timing of anticipated road authority and transit projects and for additional projects not currently contemplated. Alectra Utilities noted that, while it has included a forecast of capital costs for these types of projects based on historical actuals in its capital budget, these expenditures can be volatile and subject to change due to the third-party nature of such projects.

SEC submitted that the EDCVA is appropriate only if the M-Factor is denied, and as long as the baseline budget of projects included in base rates is clear. SEC submitted, however, that the distinction of what is included in base rates is not clear in the present application, and that it is unable to discern which projects out of the 884 projects listed in the DSP are part of the EDCVA baseline, and which are not. Therefore, if the OEB denies the M-Factor, SEC submitted that Alectra Utilities should apply for the EDCVA in its next rate application with a detailed baseline analysis. In the event that the OEB approves the M-Factor, SEC submitted that the EDCVA would not be appropriate as the utility should be expected to manage within its capital budget and cut spending in other areas to accommodate projects of this nature.

VECC supported Alectra Utilities' request for an EDCVA subject to certain revisions. VECC proposed that all projects that fall under the purview of the *Public Service Works on Highways Act* be removed from the M-Factor proposal, and only be recorded within the EDCVA. Additionally, VECC supported allowing Alectra Utilities to capture interest costs (Allowance for Funds Used During Construction) in order to hold the utility whole.

Energy Probe, AMPCO and OEB staff submitted that the EDCVA should be denied along with the M-Factor.

In its reply submission, Alectra Utilities withdrew its request for the EDCVA and stated it will instead manage the uncertainty associated with externally driven capital expenditures.

Findings

Alectra Utilities decided in its reply submission that this account is no longer needed, and that it will manage the uncertainty associated with its externally driven capital expenditures. The OEB finds that this position is acceptable.

Sources of Incremental Capital Funding

Alectra Utilities argued that the requirement to set just and reasonable rates under Section 78 of the OEB Act is not a binary decision of all or nothing. As a result, in Alectra Utilities' view, the OEB has an obligation to set rates that are just and reasonable even if the OEB is not satisfied that the rates *applied for* are just and reasonable.

Parties that did not support Alectra Utilities' M-Factor proposal suggested a number of alternative methods for Alectra Utilities to request incremental capital funding during the remainder of its deferred rebasing period, in the event that the OEB does not approve the M-Factor.

AMPCO, Energy Probe, CCC, OEB staff, SEC and VECC all agreed that the ICM remains available to Alectra Utilities during the remainder of its deferred rebasing period. However, CCC and SEC submitted that Alectra Utilities should only be eligible for ICM funding in the 2021 rate year and onward (i.e. no ICM treatment in the current proceeding for 2020 rates). Specifically, SEC submitted that Alectra Utilities has not indicated which of its projects would qualify for ICM treatment, even after requests from various parties, and has therefore not met the filing requirements for ICM requests. Further, SEC argued that Alectra Utilities has failed to provide alternatives to its M-Factor proposal, and that it was inappropriate for Alectra Utilities to expect the OEB to come up with alternatives and sort out which projects the OEB could potentially approve. Based on the evidence on the record, SEC submitted that it is not legally or practically possible for the OEB to approve any ICM funding for Alectra Utilities in 2020.

OEB staff submitted that there are a number of projects, out of the $52.7 million 2020 M-Factor funding, that could possibly be approved as ICM projects, as they meet the project-specific materiality threshold and similar projects have been approved in the past. OEB staff noted three projects totaling $12.2 million but stated that it is unable to evaluate whether any additional projects would be likely eligible for ICM treatment due to the insufficiency of the evidence on the record.

OEB staff and VECC also suggested the OEB could consider allowing a multi-year ICM or ACM-like approach to avoid annual ICM proposals and allow greater efficiency in the processing of Alectra Utilities' applications.

As another alternative, CCC, SEC, VECC and OEB staff submitted that Alectra Utilities could apply for early termination of deferred rebasing and apply to the OEB to rebase under either a cost of service or Custom IR.

Findings and Next Steps Relating to Incremental Capital Funding

Alectra Utilities has not presented the OEB with alternatives to its proposed M-Factor proposal despite being encouraged to do so.[34] If Alectra Utilities wishes to pursue its request for incremental capital funding beyond what is in its current base rates, the OEB suggests that three appropriate options may be considered:

1. File a cost-based application for rates effective in 2021 proposing updated capital requirements (cost of service or Custom IR), in which case the rebasing deferral period would be terminated.

2. Amend the current application to request incremental capital funding in 2020 for projects that meet the ICM criteria. In doing do, Alectra Utilities must provide sufficient evidence to show how the projects meet the ICM criteria. This information cannot be discerned from the current application as Alectra Utilities has not identified projects that meet the established ICM criteria. Alectra Utilities has stated that ICMs are only available on an annual basis. The OEB has previously approved a multi-year ICM, and there is no explicit prohibition in the Funding of Capital policy.[35] Alectra Utilities may wish to consider a multi-year ICM that meets the ICM criteria if it seeks further ICM funding.

3. Do not file an amendment to the application for 2020. The OEB previously approved rates for 2020 on an interim basis by applying the current Alectra Utilities' IRM escalator for each of its RZs. These rates can be made final upon request. The next application would then be for 2021 rates, in which Alectra Utilities would be eligible to request incremental capital funding through an ICM.

Alectra Utilities' rates will remain interim until it determines how it will proceed.

[34] Tr. Vol. 3 pages 198, 199; In response, Alectra's witness, Mr. Basilio, indicated that Alectra Utilities would offer a range of options in its final submissions.
[35] EB-2012-0064, Partial Decision and Order, April 2, 2013, page 8

4. CAPITALIZATION POLICY

This section of the Partial Decision relates to the capitalization policy aspects of the application. Specifically, the OEB makes findings on the following matters:

- The different options for calculation and disposition of Alectra Utilities' capitalization policy-related deferral accounts (capitalization deferral accounts), and other matters related to changes in capitalization policy
- The Horizon RZ ESM
- The Horizon RZ CIVA

4.1 Capitalization Deferral Accounts

Background

The 2018 rate application was the first application filed by Alectra Utilities following the amalgamation of Enersource, Horizon, PowerStream, and Brampton in 2017. As a result of the amalgamation, and as required under International Financial Reporting Standards (IFRS), the capitalization policies of the former Enersource, Horizon, and Brampton changed to conform to the capitalization policy of the acquirer (as identified by IFRS), the former PowerStream.

In that proceeding, the OEB issued a Decision and Partial Accounting Order,[36] ordering Alectra Utilities to establish capitalization policy-related deferral accounts for each of the Brampton, Enersource and Horizon RZs (capitalization deferral accounts). The three deferral accounts were to record the changes to the revenue requirement resulting from the change in each former utilities' capitalization policies.

In its argument-in-chief[37] and reply submission[38] filed for the 2018 rate proceeding, Alectra Utilities submitted that the capitalization deferral accounts should be closed and any amounts recorded in them reversed.

In April 2018, the OEB issued the Decision and Order in respect of the 2018 rate application (2018 Decision). In the 2018 Decision, the OEB denied Alectra Utilities' request to close the capitalization deferral accounts and reverse the amounts recorded in them. The OEB found "it appropriate to retain the balances recorded in the deferral accounts approved in the Decision and Partial Accounting Order effective February 1, 2017." With respect to the Horizon RZ, the OEB stated that "Alectra Utilities shall retain

[36] Decision and Partial Accounting Order, EB-2017-0024, December 20, 2017
[37] Applicant's Argument-in-Chief, EB-2017-0024, December 22, 2017, pages 40-46
[38] Applicant's Reply Submission, EB-2017-0024, January 30, 2018, pages 4-5

the deferral account opened for Horizon Utilities RZ, however, the first entries to the account shall begin January 1, 2020." The OEB also directed Alectra Utilities to "file a proposal for disposition of the deferral accounts in its application for 2019 rates for the Brampton and Enersource RZs."[39]

On June 7, 2018, Alectra Utilities filed an application to change its electricity distribution rates effective January 1, 2019 (2019 rate application).[40] In the 2019 rate application, Alectra Utilities proposed to clear the capitalization deferral account balances to its customers on an annual basis and provided an explanation as to how the balances in these accounts were calculated.[41] During the 2019 rate proceeding, a number of intervenors raised concerns about the completeness of the evidence that had been filed on this issue. In addition, SEC raised a couple of different proposals for disposition of these accounts and a different approach to calculating balances in them.[42] In light of these circumstances, in the Decision on Confidentiality and Procedural Order No. 3, the OEB determined that "it will not clear the balances in the capitalization deferral accounts for the Enersource and Brampton RZs in this 2019 rate proceeding so that additional options can be considered in the 2020 rate proceeding."[43]

In the current proceeding, Alectra Utilities requested that (i) "the OEB reverse the outcome of its previous decision to create the capitalization deferral accounts for each of the Brampton, Enersource and Horizon Utilities RZs…" and (ii) subject to the OEB's determination of the first issue that "the OEB determine the basis for recording balances in the capitalization deferral accounts and the treatment of the ESM for the Horizon Utilities RZ, in light of the capitalization policy change."[44]

In its Decision and Order issued on September 5, 2019, the OEB found that Alectra Utilities' request can be characterized as a motion to vary the decision to establish the three capitalization deferral accounts and that the request did not meet the threshold test for such a motion. The OEB also stated the following with respect to implementation of the Decision and Order:

> The OEB's Decision on Confidentiality and Procedural Order No. 3 in the 2019 rate proceeding required Alectra Utilities to present different options for disposition of the three capitalization related deferral accounts for assessment by the OEB, with supporting evidence, including:

[39] Decision and Order, EB-2017-0024, Revised April 6, 2018, pages 81 and 82
[40] Alectra Utilities' 2019 rate application, EB-2018-0016, filed on June 7, 2018
[41] Alectra Utilities' 2019 application evidence, EB-2018-0016, Exhibit 2, Tab 2, Schedule 7 and Exhibit 2, Tab 4, Schedule 7
[42] School Energy Coalition Submission, EB-2018-0016, October 31, 2018, pages 3-4
[43] Decision on Confidentiality and Procedural Order No. 3, EB-2018-0016, November 8, 2018, page 2
[44] Alectra Utilities' application evidence, EB-2019-0018, Exhibit 2, Tab 1, Schedule 5, page 2

> • options proposed by parties in the 2019 rate proceeding
>
> • options involving adjustments to rate base…
>
> ...options can relate to calculation of balances, the distribution of balances amongst customer classes and the billing determinants to be used…options can consider the timing and duration for the disposition, but [do not necessarily] result in the calculation of rate riders (e.g. a rate base option may use a different approach to disposition)…[45]

The OEB further provided Alectra Utilities the opportunity to augment any of its evidence on these options for consideration in the current proceeding in light of these findings.

On September 16, 2019, Alectra Utilities filed a submission[46] on the capitalization policy issues. That submission largely reiterated Alectra Utilities' pre-filed evidence (discussed below) with respect to the different options for calculating and disposing the amounts in the capitalization deferral accounts. Alectra Utilities' preliminary request was for the OEB to close the capitalization deferral accounts, however, it provided its preferred methodology for calculating balances in the accounts in the event that the OEB did not approve its preliminary request.

In addition, Alectra Utilities' submission explained that, as a result of the four legacy utilities migrating to Alectra Utilities' Enterprise Resource Planning (ERP) system in July 2019, the actual capitalization policy impacts could no longer be tracked. Alectra Utilities proposed an allocation methodology to determine the capitalization policy impacts for each RZ starting with the 2019 fiscal year.

In its pre-filed evidence,[47] Alectra Utilities compared the calculation methodology for the capitalization policy accounts that it originally proposed in the 2019 rate application to two other calculations brought forth by other parties in that proceeding, namely:

- SEC's approach, as calculated in its submission in accordance with Procedural Order No. 2 of the 2019 rate proceeding
- A set of calculations prepared by OEB staff, filed as Exhibit K1.4, in its submission in advance of the oral hearing for the 2019 rate proceeding

Alectra Utilities identified that the only notable difference between its initial method presented in the 2019 rate application and the one submitted by SEC was the way in which Payments In Lieu of Taxes (PILs) were calculated. Alectra Utilities originally

[45] Decision and Order, EB-2019-0018, September 5, 2019, page 12
[46] Alectra Utilities' capitalization policy submission, EB-2019-0018, filed September 16, 2019
[47] Alectra Utilities' application evidence, EB-2019-0018, Exhibit 2, Tab 1, Schedule 5, pages 4-9

calculated PILs based on the taxes payable method, while SEC's calculations were prepared under the traditional revenue requirement method. Alectra Utilities noted that the calculations prepared by OEB staff presented PILs under the taxes payable method as well. For this proceeding, Alectra Utilities revised its PILs calculations for the capitalization policy impacts and prepared them under the revenue requirement method.

Alectra Utilities also discussed the use of Account 1576 (the Account 1576 approach) that SEC proposed in its submission in the 2019 rate application, which the OEB applied in utilities' transition to IFRS in 2012 and 2013. The Account 1576 approach captures the cumulative impact on rate base between the year an accounting policy change takes place and the next rebasing year, as well as any incremental returns earned/forfeited by a utility during the account disposition period.[48] Alectra Utilities stated the following with respect to why it disagrees with using the Account 1576 approach:

> This approach ignores two key components of the calculation – PILs and Return on Capital...The OEB established Account 1576, Accounting Changes under CGAAP, for distributors to record the financial differences arising as a result of changes to accounting depreciation or capitalization. Account 1576 was intended only as a short-term measure to address the interim deferral of IFRS in 2012 with the expectation of a changeover to IFRS in 2013. This short-term measure was not intended to address special circumstances that arise for post-MAADs distributors. Alectra Utilities proposes a variant to Account 1576 that includes the impact of PILs and Return on Capital. The need for this variation arises as Alectra Utilities is in a rebasing deferral period.[49]

Alectra Utilities' proposal in calculating the entries to the capitalization deferral accounts included each of the following items:[50]

- The actual impact on OM&A expenditures in each year following the change in capitalization policy until rebasing
- The actual impact on depreciation expense over the life of the underlying assets as a result of the increase/decrease in capitalization costs
- The impact on income tax or PILs
- The annual return on the cumulative impact from the annual change in capitalization

[48] More information on the Account 1576 approach, including examples of entries to be made in Account 1576, can be found in the OEB's responses to Frequently Asked Questions, issued July 2012
[49] Alectra Utilities' application evidence, EB-2019-0018, Exhibit 2, Tab 1, Schedule 5, page 8
[50] Ibid.

Calculation of Balances

OEB staff submitted that the Account 1576 approach should be applied in calculating the entries that Alectra Utilities should make in the capitalization deferral accounts. OEB staff noted that the only practical, material difference between Alectra Utilities' proposal and the Account 1576 approach is with respect to return on capital. Alectra Utilities' approach involves collecting, from ratepayers, an annual return on the cumulative rate base impacts arising from operating costs being reclassified as capital. Under the Account 1576 approach, the return on that reclassified capital is not collected from ratepayers, and the return on the cumulative rate base impact that is earned over the duration of the disposition period, following rebasing, is refunded back to ratepayers. OEB staff noted that the estimated difference between the two approaches, based on Alectra Utilities' capitalization impact assessment model, is approximately $22.5 million over the deferred rebasing periods for all RZs.

OEB staff argued that reclassified capital should not attract a return component as these capital adjustments required no cash outlay or capital financing, were funded entirely by ratepayers through prevailing rates, and were not part of the OEB-approved capital expenditure envelopes of each of the legacy utilities.

OEB staff also argued that the ratemaking issues arising from changes in accounting policy upon transition to IFRS are identical to the ones created by the Alectra Utilities amalgamation and that Alectra Utilities has not provided a compelling reason to depart from the OEB's past practice. OEB staff further argued that the length of the deferred rebasing period is irrelevant in assessing different options. OEB staff submitted that the OEB should apply an approach consistent with the one used across the industry in the transition to IFRS.[51]

SEC also submitted that the Account 1576 approach should be used to calculate the capitalization deferral account balances. SEC argued that Alectra Utilities' proposal to recalculate rates as if the accounting changes were immediately included in a cost of service application is a utility-centric, rather than customer-centric approach. SEC submitted that Alectra Utilities is not in a cost of service application, but rather in an IRM period, where rates are decoupled from costs and changes in cost structures have no immediate impact on customers.

SEC suggested that the Account 1576 approach appropriately considers the customer impacts at rebasing, keeping ratepayers whole by adjusting the cumulative rate base impact. This approach includes a return component, which recognizes that a return cannot be earned by a utility until it refunds to (or collects from) customers, the full

[51] OEB staff submission, EB 2019-0018, November 14, 2019, pages 6-13

incremental rate base impacts, which occurs only at the end of the Account 1576 disposition period.

SEC also submitted that Alectra Utilities has relied on prescriptive language in the 2018 Decision to support its proposal, but has not appropriately referred to the OEB's instructions in Procedural Order No. 3 of the 2019 rate application. SEC asserts that, in the 2019 proceeding, the OEB indicated that all methods of adjustment should be considered in the current application, including adjustments to rate base, which SEC states is essentially the Account 1576 approach.[52]

VECC agreed with OEB staff and SEC, in that the OEB should apply the Account 1576 approach towards calculating the capitalization deferral account balances. VECC suggested that there is no specific circumstance in the amalgamation or the deferred rebasing period that warrant a departure from the Account 1576 methodology. In order to maintain policy consistency, VECC argued that if the OEB accepted Alectra Utilities' proposal, a reconsideration of OEB decisions in a large number of prior cost of service proceedings would be required, a course of action that is unnecessary and unwarranted.[53]

In reply, Alectra Utilities submitted that its proposed approach is consistent with the revenue requirement calculations dictated by the OEB in the 2018 Decision and Partial Accounting Order, and that only the mechanics of the calculation, rather than the basis of it, should be subject to argument in this proceeding.

Alectra Utilities disagreed with SEC's claims that its proposal is utility-centric, stating that ratepayers are necessarily held whole so long as they are only responsible for costs prudently incurred by a utility, which includes the permissible return on those costs.

Alectra Utilities submitted that the cash flow impairment suffered from a non-cash event is exacerbated if Alectra Utilities was also denied the opportunity to earn a return on reclassified costs, suggesting that the result is a subsidization of the ratepayer.

Alectra Utilities submitted that the OEB should consider the merits of the current options, rather than adhere to past precedent that was established under different circumstances. Alectra Utilities suggested that the regulatory treatment for IFRS transition was a one-time event with no implication on future ratemaking considerations, whereas any determination made in this proceeding will impact future MAADs applications, potentially tilting the playing field against future mergers.

[52] SEC submission, EB 2019-0018, November 14, 2019, pages 1-3
[53] VECC submission, EB 2019-0018, November 14, 2019, page 2

Alectra Utilities further submitted that if the OEB were to follow the Account 1576 approach, then it should not apply it beyond the course of a normal rebasing period, as Alectra Utilities, absent a merger, would have included these costs in rates beginning in 2022.[54]

Findings

The OEB adopts the Account 1576 approach to the deferral accounts for the change in capitalization policy. The Account 1576 approach was first adopted in 2012,[55] and amended in 2013,[56] to record financial differences arising from accounting changes on the transition to IFRS. This transition required most distributors to, among other things, change their capitalization policies. The capitalization policy affects how much of a cost is capitalized to become an asset, and how much is expensed as OM&A. Upon the merger, IFRS required Alectra Utilities to amend its capitalization policies for the Horizon, Brampton and Enersource RZs to those of PowerStream. Similarly, in the subsequent amalgamation between Alectra Utilities and Guelph in 2019, the Guelph RZ was required to amend its capitalization policy to conform with that of the acquirer, Alectra Utilities, in accordance with IFRS. The OEB concludes that these situations are analogous, i.e. changes in capitalization policies required by accounting standards. The OEB finds that there is no persuasive reason to amend the approach that was adopted in the past.

The Account 1576 approach determines a principal balance in the deferral account based on the difference between the property, plant and equipment (PP&E) of a utility on the previous and new capitalization policies. Upon disposition of the balance in the deferral account, a rate of return component is applied to the principal balance based on the disposition period to determine the amount to be used to calculate rate riders.[57]

For Alectra Utilities, the requirement to change the former capitalization policies has resulted in more costs being capitalized for the Horizon, Enersource and Guelph RZs (and resultant lower OM&A) and fewer costs being capitalized for the Brampton RZ (and resultant higher OM&A). Alectra Utilities forecast the net reduction in OM&A would be $65.3 million over the 10-year deferred rebasing period from 2017 to 2028,[58] which

[54] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, pages 10-15
[55] OEB letter to licensed electricity distributors; *Regulatory accounting policy direction regarding changes to depreciation expense and capitalization policies in 2012 and 2013*, issued July 17, 2012
[56] OEB letter to licensed electricity distributors; *Accounting Policy Changes for Accounts 1575 and 1576*, issued June 25, 2013
[57] The Account 1576 approach initially disposed of balances through an offset to revenue requirement but was revised in 2013 to use rate riders for greater flexibility of disposition terms.
[58] This amount includes the Horizon, PowerStream and Guelph RZs. The OEB addresses specific matters related to these RZs later in this Partial Decision.

would result in a higher net income than there would have been if the capitalization policies had not changed.

The OEB concludes that a utility should not be enriched by a change in capitalization policy, whether that change results from a merger or other reason. The OEB has previously determined that a capitalization accounting change is not a benefit arising from integration efficiencies that should accrue to the shareholder.[59] The OEB established the deferral accounts to record the impact of this change. The disposition of these accounts should ensure the impact of the capitalization policy change is not harmful to customers with respect to the recovery in rates of Alectra Utilities' costs. The OEB concludes that the 1576 approach, which was used for several years for most electrical distributors, achieves that objective by capturing the cumulative impact on rate base of the accounting policy change until the next rebasing year.

Alectra Utilities proposed another methodology for the deferral accounts that was based on a revenue requirement calculation for the impact. The OEB finds that this methodology amounts to "rebasing" the cost by applying a return on capital, offset by a small PILs component, that would not otherwise have been permitted during an IRM period under the Price Cap IR rate-setting option. This additional return on capital would also result in incremental funding for capital through a mechanism other than an ICM. Customers would be paying for this additional return on capital that they would not otherwise pay for under Price Cap IR.

Nature, Timing, and Duration of Account Dispositions

Alectra Utilities proposed to have the capitalization deferral account balances disposed of at its next rebasing application through a one-year rate rider,[60] consistent with the guidance set out in the OEB's 2013 letter[61] to licensed electricity distributors regarding disposition of Accounts 1575 and 1576.

OEB staff submitted that a rate rider is an appropriate disposition method for the capitalization deferral accounts, as it is consistent with the Account 1576 disposition methodology and provides flexibility for distributors with varying rate-setting terms. OEB staff also submitted that an annual disposition should be applied throughout the deferred rebasing period. OEB staff referred to the 2018 Decision, where the OEB raised concerns with a utility retaining large balances for an extended period.

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[59] Decision and Order, EB-2017-0024, Revised April 6, 2018, page 79
[60] Alectra Utilities proposal in its pre-filed evidence was to dispose of the accounts at rebasing through an adjustment to revenue requirement (Exhibit 2, Tab 1, Schedule 5). Its proposal was revised in response to OEB staff interrogatory G-Staff-3
[61] OEB letter to licensed electricity distributors; *Accounting Policy Changes for Accounts 1575 and 1576*, issued June 25, 2013

OEB staff submitted that a one-year rider would be appropriate under annual dispositions. However, in the event that the OEB delays disposition to Alectra Utilities' next rebasing application, OEB staff submitted that a rate rider should span the length of the subsequent rate-setting term, to better offset the increased rates realized over that full period.[62]

SEC submitted that the balances should be disposed of at Alectra Utilities' next rebasing application, consistent with the Account 1576 disposition methodology. SEC suggested that, at that time, the OEB may determine a disposition period that avoids rate shock, keeping in mind the return component is influenced by the disposition timeframe.[63]

In reply, Alectra Utilities submitted that a one-year disposition period, commencing at Alectra Utilities' next rebasing application is appropriate. Alectra Utilities noted that the cumulative balances are similar in size to Alectra Utilities' Group 1 accounts, for which no rate mitigation was required in its most recent dispositions. In the event that the OEB decides that delaying disposition may impact customers, Alectra Utilities submitted that disposition should occur every 5 years, consistent with the regular disposition cycle for Group 2 accounts.[64]

Findings

Consistent with the Account 1576 approach, the OEB agrees that disposition at the next rebasing is appropriate. The OEB concludes that the duration of the disposition is best determined at the time of rebasing so the impact on rates to customers and cashflow to the utility can be considered based on the most up-to-date information. The Account 1576 approach requires a rate of return component to be applied to the balance in the deferral account before disposition. The return component captures the return on capital that is earned between the start of the rebasing year and the date that the principal balance is fully amortized (end of the disposition period). Therefore, it cannot be calculated until the disposition period is determined. The OEB is adopting the same approach for the current capitalization deferral accounts. The weighted average cost of capital to be used and the rate of return component will be determined at the time the accounts are disposed. Consistent with the Account 1576 approach, since a return component is applied upon disposition, no additional carrying charges should be calculated on the capitalization deferral accounts. Any carrying charges recorded to date on these accounts should be reversed.

[62] OEB staff submission, EB 2019-0018, November 14, 2019, pages 13-14
[63] SEC submission, EB 2019-0018, November 14, 2019, page 4
[64] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, pages 16-17

Tracking of Capitalization Policy Impacts from 2019 to 2028

Alectra Utilities indicated that, as of July 2019, its former legacy utilities have successfully migrated to a new consolidated ERP system. As a result, it will no longer be able to track the actual impacts of the change in accounting policy for each RZ without the costly maintenance of separate accounting systems. Alectra Utilities has proposed an allocation methodology to determine the capitalization policy impacts for each RZ starting with the 2019 fiscal year.[65]

OEB staff argued that an allocation methodology based on best available data prior to the ERP convergence is a reasonable approach to proxy the actual impacts and maintenance of four systems would be an unnecessary, resource-intensive endeavor. Since the 2019 and subsequent impacts are not in the scope of this proceeding, OEB staff submitted that any allocation methodologies should be considered in Alectra Utilities' 2021 rate proceeding.[66]

SEC submitted that Alectra Utilities should not have taken any steps that would prevent it from complying with the OEB's orders to track the actual capitalization policy impacts, especially given the magnitude of the amounts involved. SEC further submitted that Alectra Utilities should be ordered to maintain proper records, and to provide the actual differences in accounting policies in their annual rate cases.[67]

VECC submitted that the OEB's policy with respect to accounting changes was established before the Alectra Utilities' merger, and the lack of maintaining appropriate records to comply with this policy should not be ignored or rewarded in this case.[68]

In reply, Alectra Utilities submitted that maintaining separate systems for tracking purposes would leave it arbitrarily penalized for pursuing synergies that the OEB encouraged in the MAADs Decision.[69]

Findings

The OEB finds Alectra Utilities' approach to allocations acceptable based on the information provided in this proceeding. Allocation methodologies are not an exact science, and typically there are a number of different approaches that can be applied. Alectra Utilities is now a merged utility seeking to pursue synergies. One of these has been to consolidate to a new ERP. As a result, estimates are required to allocate financial information to each RZ. The OEB accepts this approach. However, the OEB

[65] Alectra Utilities' capitalization policy submission, EB-2019-0018, filed September 16, 2019
[66] OEB staff submission, EB 2019-0018, November 14, 2019, pages 16-17
[67] SEC submission, EB 2019-0018, November 14, 2019, pages 4-5
[68] VECC submission, EB 2019-0018, November 14, 2019, page 2
[69] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, pages 18-19

concludes that it is appropriate to continue to monitor the results of the allocation methodology for unexpected results that might lead to the conclusion that an amendment is required to the allocation approach on a prospective basis.

Guelph RZ

Following the amalgamation between Alectra Utilities and Guelph, the accounting policies of the Guelph RZ were revised to match those of Alectra Utilities, effective January 1, 2019, in conformance with IFRS.

Consistent with the treatment of tracking the capitalization policy impacts in the other applicable RZs, Alectra Utilities confirmed that it intends to request the establishment of a deferral account for the Guelph RZ to track the impact of the capitalization policy change.[70]

OEB staff suggested that the OEB direct Alectra Utilities to provide a draft accounting order at the Draft Rate Order stage of this proceeding, for the purposes of the OEB's review in approving this deferral account.[71]

Alectra Utilities did not address OEB staff's suggestion in its reply.

Findings

Alectra Utilities provided details of the change in capitalization policy for Guelph resulting from its merger with Alectra Utilities in 2019. The OEB is establishing a deferral account for the Guelph RZ on the same basis as the deferral accounts for the other RZs. Alectra Utilities is required to provide a draft accounting order as part of the draft rate order stage of this proceeding.

The rates for the Guelph RZ were not set interim in 2019, and no deferral account was established for 2019. Therefore, the capitalization deferral account for the Guelph RZ will be effective January 1, 2020.

PowerStream RZ

In its evidence and response to interrogatories, Alectra Utilities included details of the impact of capitalization changes for the PowerStream RZ.[72] For the merger, PowerStream was considered the acquirer under IFRS. As a result, Alectra Utilities was required to amend its capitalization policies for the Horizon, Brampton, and Enersource RZs to those of PowerStream. For this reason, the OEB did not establish a

[70] Response to OEB staff interrogatory G-Staff-2 c)
[71] OEB staff submission, EB 2019-0018, November 14, 2019, pages 15-16
[72] Exhibit 2, Tab 1, Schedule 5, Table 20 and G-Staff-3

capitalization deferral account for the PowerStream RZ.[73] Alectra Utilities did not make a proposal with respect to these amounts for the PowerStream RZ.

Findings

It is not clear to the OEB whether Alectra Utilities provided the details with respect to the PowerStream RZ because it is proposing this be recorded in a deferral account, or that the details were provided for illustrative purposes. In the 2019 rate application[74], Alectra Utilities stated that the amounts were the result of a change in estimate, requiring a reclassification of costs between burden pools for the PowerStream RZ. The OEB has not typically established deferral accounts for changes in accounting estimates, and is not establishing one at this time.

Other Changes in Capitalization Policy – Adoption of IFRS 16 Leases

In January 2016, the International Accounting Standards Board issued IFRS 16, which replaces the International Accounting Standard 17-Leases and related interpretations (IAS 17). IFRS 16 establishes the principles for the recognition, measurement, presentation and disclosure of leases, with the objective of ensuring that lessees and lessors provide relevant information that represents those transactions. The new standard brings most leases on the balance sheet for lessees under a single model, eliminating the distinction between the operating and finance leases. Alectra Utilities adopted IFRS 16 on January 1, 2019, using the modified retrospective approach.

Alectra Utilities provided a table showing what its balance sheet and income statement impacts would be over the deferred rebasing period resulting from IFRS 16 adoption. Alectra Utilities' argued that the impact of the new lease standard during the deferred rebasing period would be immaterial and largely eliminated by the time Alectra Utilities subsequently rebases. As a result, Alectra Utilities stated that it will not be requesting a deferral account to capture the impact of the adoption of IFRS 16, on account of it being immaterial.[75]

OEB staff submitted that Alectra Utilities' evidence appeared to only consider the impact of existing leases, and not future leases. OEB staff suggested that the OEB order Alectra Utilities to provide augmented evidence in its subsequent rate proceeding that includes future leases, or alternatively, provide detailed explanations for why Alectra Utilities determined that no new leases will be impacted by IFRS 16. OEB staff further suggested that the OEB establish a deferral account, as Alectra Utilities has not

[73] Decision and Order, EB-2017-0024, Revised April 6, 2018, page 80
[74] EB-2018-0016
[75] Response to OEB staff interrogatory G-Staff-1 c) to i)

provided sufficient evidence to demonstrate that the cumulative net impact over the deferred rebasing period is, in fact, immaterial.[76]

SEC also submitted that Alectra Utilities' evidence did not appear to consider newly capitalized leases, and had concerns with Alectra Utilities use of interest expense as a proxy for capital-related costs that will enter into rate base in a future proceeding. SEC also advocated for additional evidence to be provided in a future proceeding for the OEB to determine if IFRS 16 should be implemented for regulatory purposes and whether entries to Account 1576 would be required.[77]

In its reply submission, Alectra Utilities addressed the issue of future leases by stating that it "does not intend to obtain new leases over the course of planning period [sic]."[78] Alectra Utilities maintained that, for ratemaking purposes, the difference between IFRS 16 and IAS 17 is a timing difference that will have no bearing on future rates at rebasing, and so no additional evidence, nor an accounting order, should be required for this accounting change.

Findings

The information provided by Alectra Utilities indicates that the impact of the change from the IFRS 16 standard is not material.[79] The OEB is therefore not establishing any accounting direction related to this matter at this time.

4.2 Horizon RZ Custom IR Application

Horizon Utilities filed a custom incentive rate-setting (Custom IR) application with the OEB in 2014[80] requesting approval of distribution rates for the five-year period from 2015 to 2019 with rates effective January 1st of each year. A partial settlement proposal was filed on September 22, 2014, which was accepted by the OEB, and a Decision and Order on the outstanding matters was subsequently issued establishing rates effective January 1, 2015. The OEB-approved settlement proposal stated that Horizon Utilities' rates would be adjusted annually for a number of items, including the following two potential types of adjustments:[81]

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[76] OEB staff submission, EB 2019-0018, November 14, 2019, pages 17-18
[77] SEC submission, EB 2019-0018, November 14, 2019, pages 4-5
[78] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, pages 20-21
[79] G-Staff-1
[80] EB-2014-0002
[81] Any other items pertaining to the OEB-approved settlement proposal that are applicable rate adjustments for Alectra Utilities' 2020 rates have been addressed in the IRM stream of this proceeding

- An ESM that would return to ratepayers, on an annual basis, fifty percent of any earnings that exceeded Horizon Utilities' regulated rate of return in a given fiscal year
- A CIVA that would refund ratepayers, at the next rebasing, any difference in the revenue requirement should in-service capital additions be lower than the approved forecast

4.2.1 Horizon RZ ESM

Background

As noted above, the approved settlement proposal provided for earnings in excess of the approved ROE to be shared on a 50/50 basis between Horizon Utilities and its customers. A deferral account was created to track earnings in excess of the OEB's annual approved ROE.

In Procedural Order No. 3 (PO 3) of the 2019 rate application, the OEB deferred matters with respect to the capitalization deferral accounts to Alectra Utilities' 2020 rate application.[82] PO 3 also provided for an oral hearing that was convened on December 5 and 6, 2018 to address the Horizon RZ ESM and other matters. Alectra Utilities and the parties reached a settlement agreement on the Horizon RZ ESM. The parties agreed that the allocation of costs between Alectra Utilities' RZs to determine the Horizon RZ ESM for 2017, and the interaction between the calculation and the change in capitalization policy, should be deferred to the 2020 rate application proceeding.[83]

In this proceeding, Alectra Utilities is seeking approval for the calculation of the Horizon RZ's 2017 achieved ROE of 10.038%, net income of $20,780,781, excess earnings of $2,604,972 (based on approved ROE of 8.78%) and amount due to ratepayers of $1,302,486 for the purposes of earnings sharing.[84]

Alectra Utilities is also seeking approval for the calculation of the Horizon RZ's 2018 achieved ROE of 8.368%, net income of $17,980,733, excess earnings of nil (based on approved ROE of 9.00%), and amounts due to ratepayers of nil for the purposes of earnings sharing.[85]

[82] Decision on Confidentiality and Procedural Order No. 3, EB-2018-0016, November 8, 2018, pages 2-3
[83] Exhibit K-2.1 - Settlement Proposal, EB-2018-0016, December 6, 2018
[84] Updated from application evidence; Response to OEB staff interrogatory HRZ-Staff-2 e), Table 12 – ESM calculation summary – 3 Year Average OM&A revised
[85] Ibid.

The 2017 (and subsequently 2018) reported earnings are the first to be derived from Alectra Utilities' consolidated reporting structure, following the amalgamation in February 2017. As such, it was necessary for Alectra Utilities to allocate certain costs that cannot be directly attributed to specific RZs.[86]

In addition, since the consolidated results of Alectra Utilities include merger-related cost and savings, Alectra Utilities adjusted its calculations of the Horizon RZ earnings for the purposes of earnings sharing to account for any estimated merger-related activities.

Alectra Utilities also requested that the OEB determine the treatment of the Horizon ESM, in light of the capitalization policy change.[87] For 2017 and 2018, Alectra Utilities has not adjusted earnings based on Horizon Utilities capitalization policy in place prior to the merger, citing the 2018 Decision where the OEB stated: "For the remainder of the Custom IR term, the effect on earnings resulting from the change in the capitalization policy will be dealt with through the ESM."[88]

In conjunction with the requests for approval noted above, Alectra Utilities has applied to the OEB for orders approving the disposition of the 2017 and 2018 Horizon ESM.[89]

Treatment of Capitalization Policy Change in Horizon ESM

OEB staff agreed with Alectra Utilities that it had appropriately interpreted the OEB's direction to flow the effects of the capitalization policy change through the Horizon ESM (and therefore use the post-merger accounting policies to calculate the ESM).[90]

SEC submitted that the OEB's findings in the 2018 Decision, with respect to flowing capitalization impacts through the ESM, were based on the expectation that the capitalization deferral accounts would be calculated as an annual revenue requirement adjustment. The OEB has subsequently articulated that the adjustment to rate base approach may be the appropriate method to calculate those balances. SEC submitted that if that approach is adopted, the Horizon RZ should be treated consistent with this methodology, whereby any impacts from accounting changes would be dealt with as a rate base differential adjustment upon rebasing, and not during an IRM period. This would result in achieved earnings being reduced from 2017 to 2019, but would include entries to Account 1576 for the Horizon RZ during that timeframe.[91]

[86] Alectra Utilities application evidence, EB-2019-0018, Exhibit 3, Tab 1, Schedule 2, page 1 of 24
[87] Alectra Utilities application evidence, 2019-0018, Exhibit 2, Tab 1, Schedule 5, page 2
[88] Decision and Order, EB-2017-0024, April 6, 2018, Page 81
[89] Alectra Utilities application evidence, 2019-0018, Exhibit 1, Tab 2, Schedule 1, page 2
[90] OEB staff submission, EB 2019-0018, November 14, 2019, page 21
[91] SEC submission, EB 2019-0018, November 14, 2019, pages 5-6

Alectra Utilities disagreed with SEC's proposal, describing to it as contrary to the OEB's 2018 Decision.[92]

Merger-related adjustments and allocation methodologies

In OEB staff's submission, an issue was raised with respect to the reasonability of OM&A costs that were being reported for the purposes of the ESM calculation. OEB staff did not support Alectra Utilities' reported figures of merger-related OM&A savings (costs). OEB staff argued that there is a high probability that Alectra Utilities has overstated its merger-related savings and/or understated its merger-related costs with respect to OM&A for both 2017 and 2018. OEB staff's conclusions were largely informed by the historical OM&A spending patterns of Alectra Utilities' legacy distributors. OEB staff was concerned that the merger adjustments are estimates that are reliant on a forecast business plan, and that they require casting judgement on whether an activity is merger-related or not. OEB staff further suggested an alternative methodology in calculating the ESM for 2017 and 2018, whereby the 2016 OM&A figures are escalated to 2017 and 2018, based on historical average trends, and adjusted for specific anomalies, as identified by Alectra Utilities.[93]

OEB staff also submitted that 2017 and 2018 OM&A should be allocated based on the 2016 proportions of those costs for each RZ, rather than the OM&A averages from 2014 to 2016, as proposed by Alectra Utilities. OEB staff noted that the Horizon RZ decreased its costs from 2014 to 2016 greater than any other RZ, and that using cost proportions prior to 2016 would not fairly reflect the relative efficiency gains that the Horizon RZ has made. OEB staff further submitted that a normalization technique would be the most appropriate way to adjust the 2016 proxy for any anomalous activity, rather than smooth out and average those costs over an extended period. OEB staff also submitted that Alectra Utilities' proposal to use a multi-year average proxy for OM&A would be inconsistent with the proposal to use single-year data for the allocation of general plant additions and depreciation.[94]

A summary of OEB staff's proposed adjustments to the ESM are provided below:[95]

[92] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, page 23
[93] OEB staff submission, EB 2019-0018, November 14, 2019, pages 22-28
[94] OEB staff submission, EB 2019-0018, November 14, 2019, pages 28-29
[95] OEB staff submission, EB 2019-0018, November 14, 2019, page 30

Table 1: Horizon RZ 2017 ESM Impact Summary

	As proposed by Alectra Utilities	Adjusted only for merger-related costs/savings	Adjusted only for OM&A allocations	Adjusted for merger-related costs/savings and OM&A allocations, OEB staff proposed
Achieved ROE	10.038%	11.357%	10.612%	11.894%
Net Income	$20,780,781	$23,495,922	$21,960,866	$24,597,051
Excess Earnings	$2,604,972	$5,331,528	$3,791,812	$6,439,079
Amounts Due to Ratepayers	$1,302,486	$2,665,764	$1,895,906	$3,219,540

Table 2: Horizon RZ 2018 ESM Impact Summary

	As proposed by Alectra Utilities	Adjusted only for merger-related costs/savings	Adjusted only for OM&A allocations	Adjusted for merger-related costs/savings and OM&A allocations, OEB staff proposed
Achieved ROE	8.368%	9.127%	8.995%	9.732%
Net Income	$17,980,733	$19,601,439	$19,320,842	$20,893,708
Excess (Under) Earnings	($1,357,838)	$272,369	($9,842)	$1,572,245
Amounts Due to Ratepayers (nil if negative)	($678,919)	$136,185	($4,921)	$786,122

In reply, Alectra Utilities submitted that OEB staff's conclusions are drawn based on a lack of information available to explain the increases in costs from 2016 to 2017, citing the fact that a meaningful variance analysis cannot be made between the legacy distributors' historical results and those of Alectra Utilities, which are prepared under different financial mapping structures. Alectra Utilities submitted that its process for estimating merger-related OM&A impacts is accurate and should be relied upon for the purposes of the Horizon RZ ESM, as proposed. Alectra Utilities also noted that OEB staff erred in treating the identified costs of monthly billing as a one-time adjustment in 2017, rather than a recurring cost.[96]

[96] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, pages 23-26

Alectra Utilities submitted that 2016 was an anomalous year and should not be relied upon as a proxy for 2017 and 2018 OM&A allocations. Alectra Utilities stated that the impending merger in 2017 impacted the 2016 OM&A results. These results reflected increased staff attrition during 2016 in the Horizon RZ, and increased resources used in the Enersource and PowerStream RZs with respect to Alectra Utilities' future CIS and ERP systems, respectively. Alectra Utilities compared OEB staff's proposed OM&A allocation to other alternatives (3-year average, 5-year average, and a 3-year average adjusted for customer growth in subsequent years) and submitted that OEB staff's approach is the only one that does not implicitly include a customer growth rate in the allocation. Alectra Utilities further submitted that comparing OM&A allocators to other cost categories would be inappropriate, as other allocators, such as closing rate base or single-year depreciation figures, inherently reflect the accumulation of costs over multiple years.[97]

Findings

The OEB previously determined that the method for addressing the capitalization policy change for the Horizon RZ would be through the ESM until the end of the Custom IR term.[98] The OEB is not amending that approach. As discussed previously, allocation methodologies are not an exact science, and different approaches can be adopted. The OEB notes that Alectra Utilities itself did not over earn in 2017 and 2018.[99] The OEB is setting just and reasonable rates and is doing so by balancing the interests of the utility and ratepayers. The OEB is therefore accepting Alectra Utilities' approach to earnings for 2017 and 2018. The earnings to be shared for the Horizon RZ are therefore $1.302 million for 2017 and $0 for 2018. As part of the draft rate order process, Alectra Utilities shall file rate riders to return this amount to customers in the Horizon RZ over the period from March 1, 2020 to December 31, 2020.

[97] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, pages 26-31
[98] Decision and Order, EB-2017-0024, April 6, 2018, page 81
[99] Per the OEB scorecard, the deemed ROE was 8.90% in 2017 and 8.94% in 2018, while the achieved ROE was 8.43% in 2017 and 7.66% in 2018. Per Alectra Utilities' evidence (IRR-HRZ-Staff-2-Attach1 and Attach 4), the ROE for earnings sharing purposes was 7.40% in 2017 and 7.62% in 2018. Even if the adjustments proposed by OEB staff are accepted (Staff Submission Appendix B and C), the ROE would be 8.42% in 2017 and 8.21% in 2018.

4.2.2 Horizon RZ CIVA

Background

The approved settlement proposal for the Custom IR framework provided for a variance account to refund ratepayers, at the next rebasing, any difference in the revenue requirement should in-service capital additions be lower than the approved forecast.[100] Each year, Alectra Utilities was required for the Horizon RZ to determine the impact to revenue requirement of the variance in its cumulative capital additions for the period from January 1, 2015 to the end of the relative year, as compared to the baseline.

The 2015 and 2016 capital additions for the purposes of the CIVA were previously approved by the OEB in Horizon Utilities' 2017 rate application[101] and Alectra Utilities' 2018 rate application,[102] respectively. The OEB's consideration of the 2017 capital additions for the CIVA, as presented in Alectra Utilities 2019 rate application,[103] was deferred to this proceeding, so that all ratemaking matters affected by Alectra Utilities' change in accounting policies are addressed in the same proceeding.[104] In doing so, the OEB stated the following with respect to the 2017 capital additions:

> The change in the capitalization policy increases the in-service capital additions for the same amount of capital work to implement the strategy. The question for the OEB is whether the capital additions for the CIVA account should be based on the capitalization policy in place at the time the Custom IR framework for the Horizon rate zone was approved, or the new post merger capitalization policy for Alectra Utilities.[105]

In this proceeding, Alectra Utilities has requested approval of the 2017 and 2018 capital additions for the purposes of calculating the entry to the CIVA based on the new post-merger capitalization policy.

Alectra Utilities reported 2017 in-service capital additions of $52.4 million, which are $6.8 million higher than the forecast additions of $45.6 million. Alectra Utilities reported 2018 in-service capital additions of $49.4 million,[106] which are $2.3 million higher than the forecast additions of $47.1 million. Consequently, Alectra Utilities calculated the 2015-2018 cumulative in-service capital additions to be $192.7 million, which are $20.5 million higher than the cumulative forecast in-service capital additions of $172.2 million.

[100] EB-2014-0002
[101] EB-2016-0077
[102] EB-2017-0024
[103] EB-2018-0016
[104] Partial Decision and Order, December 20, 2018, EB-2018-0016, page 7
[105] Ibid.
[106] Updated from $44.6 million, as originally filed, in response to OEB staff interrogatory HRZ-Staff-6 a)

Since the cumulative in-service capital additions from 2015 to 2018 were reportedly higher than the approved forecast from 2015 to 2018, no entry was proposed by Alectra Utilities for the CIVA for 2018.

These differentials were calculated based on Alectra Utilities' post-merger capitalization policies. Alectra Utilities referenced the 2018 Decision, and argued that presenting capital additions based on Alectra Utilities' post-merger capitalization policy is consistent with the treatment of capitalization policies in the Horizon RZ ESM.

In response to an OEB staff interrogatory,[107] Alectra Utilities provided the impacts on the CIVA arising from the application of the pre-merger Alectra Utilities capitalization policies rather than the post-merger Horizon Utilities capitalization policies. Those impacts are summarized below:

Table 3: Accounting Policy Impacts on Horizon RZ CIVA

Year	Captital Additions Under Pre-Merger Capitalization Policy	Captital Additions Under Post-Merger Capitalization Policy	Custom IR Application (EB-2014-0002)	Capital Investment Variance Under Pre-Merger Capitalization Policy	Capital Investment Variance Under Post-Merger Capitalization Policy
2015	$ 46,643,216	$ 46,643,216	$ 38,314,524	$ 8,328,692	$ 8,328,692
2016	$ 44,295,265	$ 44,295,265	$ 41,147,533	$ 3,147,732	$ 3,147,732
2017	$ 46,995,010	$ 52,393,539	$ 45,626,114	$ 1,368,896	$ 6,767,425
2018	$ 44,131,111	$ 49,373,848	$ 47,142,504	$ (3,011,393)	$ 2,231,344
Cumulative Total	**$ 182,064,602**	**$ 192,705,868**	**$ 172,230,675**	**$ 9,833,927**	**$ 20,475,193**

Alectra Utilities also stated that, since the capitalization policy effects flow through the ESM, using the post-merger capitalization figures to account for the CIVA would result in the same impacts being refunded back to customers twice; once through the CIVA and once through the ESM.

OEB staff submitted that the treatment of capitalization policy impacts for the purposes of the CIVA does not necessarily follow that of the ESM, noting that the OEB acknowledged that this remained a question of consideration. OEB staff further submitted that the parties to the approved settlement proposal reviewed past capital expenditures and agreed to forecast capital expenditures based on an existing capitalization policy and to compare an actual amount to an approved forecast on different measurement and presentation bases would be misaligned with the intent of the settlement. OEB staff disagreed with Alectra Utilities, in that, if any cost overlap

[107] Response to OEB staff interrogatory HRZ-Staff-6 d)

exists between the ESM and CIVA (if a CIVA entry is triggered), then this matter may be appropriately addressed at that time.[108]

SEC submitted that, assuming the OEB adopts the Account 1576 approach recommended by SEC, the CIVA should be calculated using the lower capital additions that reflect the previous capitalization policy, consistent with SEC's proposal for both the ESM and the entries to Account 1576.[109]

In its reply submission, Alectra Utilities stated that, by indicating that an adjustment may be required, OEB staff essentially acknowledges that its proposed approach may result in double counting the impact of the accounting policy change under two different regulatory mechanisms. Alectra Utilities' proposal eliminates this risk.[110]

Findings

The OEB accepts Alectra Utilities proposal that no amounts are required to be recorded in the CIVA for the Horizon RZ for 2019.

The OEB has reviewed the wording in the settlement proposal accepted by the OEB that states, "Over the term of the plan, if Horizon Utilities spends less than its capital forecast, the reduced revenue requirement impact of this will be returned to customers". Furthermore, the settlement proposal requires the variance account to be disposed at the end of the five-year term, not each year of the term. It is clear from Table 3 above that even if the pre-merger capitalization policy is the basis for the CIVA, the total actual capital additions exceed the forecast capital additions from the Custom IR application and therefore no entries need to be recorded in the CIVA for 2019. The OEB concludes that this meets the intent of the CIVA.

[108] OEB staff submission, EB 2019-0018, November 14, 2019, pages 33-35
[109] SEC submission, EB 2019-0018, November 14, 2019, page 6
[110] Alectra Utilities reply submission, EB 2019-0018, November 28, 2019, page 33

5. IMPLEMENTATION AND ORDER

The OEB is establishing a deferral account for the Guelph RZ on the same basis as the capitalization deferral accounts for the other RZs. The OEB directs Alectra Utilities to file a draft accounting order as part of the draft rate order stage. Alectra Utilities shall also file updated ESM rate riders to return the 2017 ESM amount to customers in the Horizon RZ over the period from March 1, 2020 to December 31, 2020.

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 a proposed Tariff of Rates and Charges attached that reflects the OEB's findings in this Partial Decision, by **February 10, 2020**. In the draft rate order, Alectra Utilities Corporation shall include the customer rate impacts, a draft accounting order for the capitalization deferral account for the Guelph rate zone and detailed information in support of the calculation of the 2017 ESM rate riders for the Horizon rate zone.

2. Intervenors and OEB staff may file any comments on the draft rate order with the OEB, and forward to Alectra Utilities Corporation by **February 17, 2020**. The OEB does not intend to allow for an award of costs for the review of the draft rate order or for the filing of any comments on the draft rate order.

3. Alectra Utilities Corporation may file with the OEB and forward to intervenors, responses to any comments on its draft rate order by **February 24, 2020**.

COST AWARDS

The OEB will issue a separate decision on cost awards once the following steps are completed:

1. AMPCO, BOMA, CCC, DRC, Energy Probe, MANA, SEC and VECC shall file with the OEB and copy Alectra Utilities Corporation their cost claims for all aspects of this proceeding by **February 13, 2020**.

2. Alectra Utilities Corporation may file with the OEB and forward to the party against whose claim the objection is being made, an objection to the claimed costs by **February 20, 2020**.

3. An intervenor whose cost claim was objected to, may file with the OEB and serve

Alectra Utilities Corporation, a reply submission as to why its cost claim should be allowed by **February 27, 2020**.

4. Alectra Utilities Corporation shall pay the OEB's costs incidental to this proceeding upon receipt of the OEB's invoice.

All materials filed with the OEB must quote the file number, **EB-2019-0018**, be made in a searchable/unrestricted PDF format and sent electronically through the OEB's web portal at https://pes.ontarioenergyboard.ca/eservice. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and email address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at https://www.oeb.ca/industry. If the web portal is not available parties may email their documents to the address below. Those who do not have computer access are required to file seven paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 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, Katherine Wang at Katherine.Wang@oeb.ca and OEB Counsel, Lawren Murray at Lawren.Murray@oeb.ca.

ADDRESS

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DATED at Toronto, January 30, 2020

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar and Board Secretary