



City of Hamilton
HAMILTON UTILITIES CORPORATION
SHAREHOLDER ANNUAL GENERAL MEETING
REPORT 18-002

June 6, 2018, 2:45 p.m.
 Council Chambers, Hamilton City Hall, 71 Main Street West

Present: Deputy Mayor B. Johnson (Chair)
 Councillors T. Jackson, C. Collins, S. Merulla, M. Green, J. Farr,
 A. Johnson, D. Conley, M. Pearson, L. Ferguson, A. VanderBeek

**Absent with
 Regrets:** Mayor F. Eisenberger, T. Whitehead – Other City Business
 Councillors D. Skelly, J. Partridge, R. Pasuta – Personal

**THE HAMILTON UTILITIES CORPORATION SHAREHOLDER PRESENTS REPORT
 18-002 AND RESPECTFULLY RECOMMENDS:**

**1. Local Representation on the Hamilton Utilities Corporation and Alectra Inc.
 Boards (Item 5.5)**

WHEREAS, the former Hamilton Utilities Corporation (HUC) Boards were comprised with the majority of Directors being from leading Hamilton business and community organizations, with only a minority of the representatives being selected from outside of the city of Hamilton;

WHEREAS, currently, five of the seven HUC Board Directors are not from the city of Hamilton; and,

WHEREAS, Alectra Inc. has two Board seats for Hamilton and one representative resides outside of Hamilton;

THEREFORE, BE IT RESOLVED:

- (a) That, effective in 2019, with the appointment of the new Hamilton Utilities Corporation Board at the next Annual General Meeting,

with the exception of the two the members currently holding a two-year term, the majority of Directors of the Hamilton Utilities Corporation Board be residents of the city of Hamilton; and,

- (b) That, effective in 2019 with the appointment of the new Alectra Inc. Board at the next Annual General Meeting, both of the Hamilton representatives for the Alectra Inc. Board of Directors be residents of the city of Hamilton.

2. Consolidated Financial Statements of the Hamilton Utilities Corporation and Alectra Inc. for the year ended December 31, 2017; Appointment of the Hamilton Utilities Corporation Board of Directors; Appointment of Alectra Inc. Board of Directors and Appointment KPMG LLP as the Auditor of the Hamilton Utilities Corporation and Alectra Inc. (Item 5.1)

(a) Audited Consolidated Financial Statements for the year ended December 31, 2017

That the Audited Consolidated Financial Statements of Hamilton Utilities Corporation for the year ended December 31, 2017, as approved by the Board of Directors of Hamilton Utilities Corporation, be received by the Shareholder;

(b) Appointment of Directors to Hamilton Utilities Corporation

That the Resolutions set forth below be presented to the City of Hamilton for passage as Resolutions of the Shareholder of the Corporation as representing the recommendations of the Directors of the Corporation:

Number of Directors

WHEREAS, the Articles of the Corporation and subsequent special resolutions provide that the Corporation shall have seven Directors; and,

WHEREAS, it is desirable for the Corporation to have six Directors;

THEREFORE, BE IT RESOLVED:

- (i) That, as a special resolution, henceforth the Corporation shall have six Directors;

- (ii) That, inasmuch as each of the following persons was heretofore elected as a Director of the Corporation for a three-year term, each such person is confirmed as elected and has consented to continue to serve as a Director of the Corporation, as one of the “Private Directors” of the Corporation, for the period set opposite below and thereafter until the next annual general meeting of the Corporation:
- | | | |
|-----|------------------|--|
| (1) | Joseph Rinaldo | one-year term commencing June 30, 2018 |
| (2) | Laurie Tugman | one-year term commencing June 30, 2018 |
| (3) | Daryl Wilson | one-year term commencing June 30, 2018 |
| (4) | Christa Wessel | two-year term commencing June 30, 2018 |
| (5) | Lesley Gallinger | two-year term commencing June 30, 2018 |
- (iii) That, inasmuch as the Shareholder of the Corporation has previously directed that the Mayor or the Mayor’s designate is to be a Director of the Corporation and the Mayor is presently serving as a Director of the Alectra Utilities Corporation, the Mayor’s Designate, Councillor Maria Pearson, having heretofore consented to serve as a Director of the Corporation, is confirmed as elected to continue as a Director of the Corporation except and provided that the term shall end upon the earlier of the end of the term of the Mayor as Mayor of the City or the end of the term as Councillor for the City; and,
- (iv) That these Directors comprise the Hamilton Utilities Corporation Board of Directors, effective June 30, 2018;

(c) Appointment of Directors to Alectra Inc.

WHEREAS, under the Unanimous Shareholder Agreement pertaining to Alectra Inc. (“Alectra”), Hamilton Utilities Corporation is entitled and required to nominate two Directors to the Alectra Board of Directors, of which one director must be independent.

THEREFORE, BE IT RESOLVED:

- (i) That, inasmuch the Council of the City of Hamilton has previously directed that the Mayor is to be a Director of Alectra Inc. and the Mayor is presently serving as the Non-Independent Director of Alectra Inc., the Mayor, Fred Eisenberger, is confirmed as elected to continue as a Director of Alectra Inc. throughout his term as Mayor; and,

- (ii) That Paul Benson, having heretofore consented to serve as a Director of Alectra Inc., shall be the nominee of Hamilton Utilities Corporation to serve as the Independent Director of Alectra Inc., for one-year term commencing June 30, 2018 and thereafter until the next annual general meeting of the Corporation;

(d) Appointment of the Auditor

That KPMG LLP, Chartered Accountants, the present Auditor of the Corporation, is appointed the Auditor of Hamilton Utilities Corporation for the 2018 fiscal year of the Corporation.

3. Shareholder Declarations – Hamilton Utilities Corporation (Item 5.2)

WHEREAS, the City of Hamilton (the “Shareholder”), as the sole shareholder of Hamilton Utilities Corporation (“HUC”), approved the amalgamation of Horizon, PowerStream, Enersource and Hydro One Brampton to create Alectra Inc. on October 30, 2015;

WHEREAS, in light of the Alectra Inc. amalgamation, HUC was restructured, among other reasons, to create improved corporate governance and to avoid negative tax implications;

WHEREAS, upon restructuring, the assets of Alectra Inc. remained with HUC, but all other assets were transferred to the newly formed Hamilton Enterprises Holding Corporation (“HEHCo”) or its subsidiaries;

WHEREAS, as prudent practice, new unanimous Shareholder declarations were required for both HUC and HEHCo, as a result of the HUC restructuring;

WHEREAS, the Board of Directors of HUC and staff for the Shareholder have been involved in the drafting of the new unanimous Shareholder declarations for HUC and HEHCo; and,

WHEREAS, the Board of Directors of HUC passed a resolution on May 24, 2018, in the form set out in Appendix “A”, that recommends the adoption of the new unanimous Shareholder declarations by the Shareholder;

THEREFORE, BE IT RESOLVED:

- (a) That the City of Hamilton, acting in its capacity as sole shareholder of Hamilton Utilities Corporation, adopt the Unanimous Shareholder Declaration for Hamilton Utilities Corporation in the form attached as Appendix “A” to Report 18-002, as amended; and,
- (b) That the Mayor and Clerk of the City of Hamilton, acting in its capacity as Sole Shareholder of Hamilton Utilities Corporation, be authorized and directed to execute the Unanimous Shareholder Declaration for Hamilton Utilities Corporation in the form attached as Appendix “A” to Report 18-002, as amended.

4. Dividend Policy – Hamilton Utilities Corporation (Item 5.3)

WHEREAS, the Board of Directors of the Hamilton Utilities Corporation (Corporation) passed a resolution on May 24, 2018, in the form set out in Appendix “A” attached hereto, that approved a Dividend Policy for the Corporation, as set out in Appendix “B” attached hereto;

THEREFORE, BE IT RESOLVED:

That the City of Hamilton, acting in its capacity as Sole Shareholder of the Hamilton Utilities Corporation (Corporation), hereby approves Dividend Policy for the Corporation, as set out in Appendix “B” attached hereto.

5. Amendment to the Alectra Inc. Unanimous Shareholder Agreement (Item 5.4)

WHEREAS, the Corporation and the City of Hamilton (the “Shareholder”), among others, are parties to the Unanimous Shareholders Agreement (the “USA”) for Alectra Inc. (“Alectra”) dated the 31st of January 2017;

WHEREAS, the Corporation has received notice on April 13, 2018 that the Board of Directors of Alectra has approved and is recommending to its shareholders minor amendments to the Alectra USA;

WHEREAS, pursuant to the letter dated April 30, 2018, the Corporation provided notice to the Shareholder, advising of the Corporation’s intention to make a recommendation to the Shareholder;

WHEREAS, the Audit and Risk Management Committee (the “ARM”) met on May 7, 2018 to review the amendments to the Alectra USA and has recommended

approval to the Board of Directors of the Corporation (the “HUC Board”) and the Shareholder;

WHEREAS, the HUC Board has deliberated upon, and discussed, the ARM recommendation and the submission made by Alectra on April 13, 2018;

WHEREAS, on May 24, 2018, the HUC Board has recommended the amendments to the Alectra USA as prescribed in the resolution attached hereto as Appendix “A”; and,

WHEREAS the Shareholder is relying upon the recommendation of the HUC Board;

THEREFORE, BE IT RESOLVED:

- (a) That the Shareholder approve the amendments to the Alectra Inc. Unanimous Shareholder Agreement as prescribed in the resolution attached hereto as Appendix “A”;
- (b) That the Mayor and Clerk of the Shareholder be authorized and directed to execute the amendments to the Alectra Inc. Unanimous Shareholder Agreement as prescribed in the resolution attached hereto as Appendix “A”;
- (c) That the General Manager, Finance and Corporate Services, be authorized and directed to execute any ancillary documents in a form approved by the City Solicitor with content approved by the General Manager, Finance and Corporate Services; and,
- (c) That the Shareholder waive any approval rights it may have to allow the Hamilton Utilities Corporation Board to approve the amendments to the Alectra Inc. Unanimous Shareholder Agreement, as prescribed in the resolution attached hereto as Appendix “A”.

FOR THE INFORMATION OF THE SHAREHOLDER:

(a) CHANGES TO THE AGENDA (Item 1)

The Committee Clerk advised of the following changes to the agenda:

1. SHAREHOLDERS RESOLUTIONS (Item 5)

Hamilton Enterprises Holding Corporation has been removed from the following items and will be dealt with at their Inaugural Annual General Meeting following this meeting:

5.1 Consolidated Audited Financial Statements of the Hamilton Utilities Corporation and Alectra Inc. for the year ended December 31, 2017; Appointment of the Hamilton Utilities Corporation Board of Directors; Appointment of Alectra Inc. Board of Directors and Appointment of KPMG LLP as the Auditor of the Hamilton Utilities Corporation and Alectra Inc.

5.2 Shareholder Direction and Unanimous Shareholder Declaration – Hamilton Utilities Corporation

5.5 Local Representation on the Hamilton Utilities Corporation and Alectra Inc. Boards (Added Item)

2. PRIVATE & CONFIDENTIAL (Item 7)

7.1 Closed Session Minutes – January 17, 2018

The agenda for the June 6, 2018 Hamilton Utilities Corporation Shareholder Annual General Meeting was approved, as amended.

(b) DECLARATIONS OF INTEREST (Item 2)

There were no declarations of interest.

(c) APPROVAL OF MINUTES OF PREVIOUS MEETING (Item 3)

(i) December 6, 2017 (Item 3.1)

The Minutes of the November 22, 2017 Hamilton Utilities Corporation Shareholder meeting were approved, as presented.

(ii) January 17, 2018 (Item 3.2)

The Minutes of the January 17, 2018 Hamilton Utilities Corporation Shareholder meeting were approved, as presented.

(d) PRESENTATIONS (Item 4)

(i) Hamilton Utilities Corporation (including and update from Alectra Inc.) (Item 4.1)

Joe Rinaldo, Chair of the Hamilton Utilities Corporation Board of Directors; Max Cananzi, President of Alectra Inc.; John Basilio, Chief Financial Officer of Alectra Inc.; and, Troy Hare, President of HCE Telecom, addressed Committee and provided a PowerPoint presentation respecting Hamilton Utilities Corporation, Alectra Inc. and HCE Telecom.

The presentation respecting Hamilton Utilities Corporation, Alectra Inc. and HCE Telecom, was received.

Item 5.5, being a Resolution, respecting Local Representation on the Hamilton Utilities Corporation and Alectra Inc. Boards, was moved up on the agenda to be considered prior to Item 5.1.

(e) SHAREHOLDER RESOLUTIONS (Item 5)

(i) Shareholder Declarations – Hamilton Utilities Corporation (Item 5.2)

Section 3.02 – Alectra Directors, of Appendix “B” to the Hamilton Utilities Corporation Shareholder Declarations, be amended by adding the words “All the Corporation’s appointees to the Board of Directors of Alectra shall be residents of the city of Hamilton. Subject to the foregoing,” to read as follows:

3.02 Alectra Directors: All the Corporation's appointees to the Board of Directors of Alectra shall be residents of the city of Hamilton. Subject to the foregoing, the Corporation shall cause the Nominating Committee constituted for the purposes of this HUC Declaration to use the same criteria and follow the same procedure to make a Timely report and recommendation to the Shareholder of candidates qualified for the City to select as the Corporation's appointees to the board of directors of Alectra. The Corporation shall not, without the approval of the Shareholder, place forward or nominate any appointee or nominee of the Corporation to the board of directors of Alectra. Once selected by the Shareholder, the Corporation shall notify Alectra of the appointees to the board of directors of Alectra selected by the Shareholder.

Councillor M. Pearson wished to be recorded as OPPOSED to the Amending Motion above.

Section 6.05 – Qualifications of Directors, of Appendix “B” to the Hamilton Utilities Corporation Shareholder Declarations, was amended by adding the words “Notwithstanding the foregoing, the majority of Directors shall be residents of the city of Hamilton.”, to read as follows:

6.05 Qualifications of Directors: When selecting persons to recommend to the Shareholder to be directors of the Corporation, the Nominating Committee of the Board and the Board will, generally, consider all of qualifications of candidates including sound judgment and personal integrity. In evaluating and nominating potential independent nominees for the Board, the Nominating Committee shall strive to achieve a Board composed of members that, as a group, have skills, experience and expertise in, among other things corporate and/or public management including strategic planning, governance, finance, project development and operations, regulated energy services, environmental matters, municipally-owned corporations and government relations. Preference may be given to qualified candidates who are residents of the City of Hamilton, however non-residents of the City of Hamilton shall not be excluded from serving as directors of the Corporation. Notwithstanding the foregoing, the majority of Directors shall be residents of the city of Hamilton. Candidates for being a director of the Corporation must consent to the disclosure of his or her director's remuneration to Council for the City of Hamilton and placed on the public record each fiscal year in a form and with sufficient details as prescribed by the Shareholder from time to time.

Councillor M. Pearson wished to be recorded as OPPOSED to the Amending Motion above.

(iv) Local Representation on the Hamilton Utilities Corporation and Alectra Inc. Boards (Item 5.5)

Sub-sections (a) and (b) to the Motion, respecting Local Representation on the Hamilton Utilities Corporation and Alectra Inc. Boards, were amended by adding the words “effective in 2019 with the appointment of the new Hamilton Utilities Corporation Board at the next Annual General Meeting, with the exception of the two members currently holding a two-year term,” and the words “effective in 2019 with the appointment of the new Alectra Inc. Board at the next Annual General Meeting,” respectively, be added to read as follows:

- (a) That, effective in 2019 with the appointment of the new Hamilton Utilities Corporation Board at the next Annual General Meeting, with the exception of the two members currently holding a two-year term, the majority of Directors of the Hamilton Utilities Corporation Board be residents of the city of Hamilton; and,
- (b) That, effective in 2019 with the appointment of the new Alectra Inc. Board at the next Annual General Meeting, both of the Hamilton representatives for the Alectra Inc. Board of Directors be residents of the city of Hamilton.

Councillor M. Pearson wished to be recorded as OPPOSED to the Amending Motion above.

The Main Motion, as amended, CARRIED on the following Standing Recorded Vote:

Yeas: T. Jackson, C. Collins, S. Merulla, M. Green, J. Farr, A. Johnson, D. Conley
Total: 7
Nays: M. Pearson, A. VanderBeek, B. Johnson
Total: 3
Absent: F. Eisenberger, T. Whitehead, D. Skelly, L. Ferguson, R. Pasuta, J. Partridge
Total: 6

(f) PRIVATE & CONFIDENTIAL (Item 7)

(i) Closed Session Minutes – January 17, 2018

- (a) The Closed Session Minutes of the January 17, 2018 Hamilton Utilities Corporation Shareholder meeting were approved, as presented; and,
- (b) The Closed Session Minutes of the January 17, 2018 Hamilton Utilities Corporation Shareholder meeting shall remain confidential.

(g) ADJOURNMENT (Item 8)

There being no further business, the Hamilton Utilities Corporation Shareholders Annual General Meeting adjourned at 4:20 p.m.

Respectfully submitted,

Deputy Mayor Brenda Johnson
Chair

Stephanie Paparella
Legislative Coordinator
Office of the City Clerk

SHAREHOLDER DIRECTION

and

UNANIMOUS SHAREHOLDER DECLARATION

City of Hamilton

to

Hamilton Utilities Corporation
as regards its interests in:

Alectra Inc.

JUNE 6, 2018

SHAREHOLDER DIRECTION

and

UNANIMOUS SHAREHOLDER DECLARATION

WHEREAS Hamilton Utilities Corporation (the “**Corporation**”) is a corporation incorporated and existing under the Ontario *Business Corporations Act*; and

WHEREAS the City of Hamilton (the “**City**”) is the beneficial and registered owner of all of the issued shares of the Corporation; and

WHEREAS through this Direction and Declaration made and issued by the City to the Corporation, it is the purpose of the City to:

- (i) inform the Corporation of certain expectations that the City has with respect to the Corporation and its activities;
- (ii) provide certain directions to the Corporation as to how its activities are to be conducted;
- (iii) provide certain restrictions on the investments, shares, securities, assets, business, activities and undertaking that the Corporation may own and conduct;
- (iv) provide certain principles that are to govern the activities of the Corporation;
- (v) restrict certain actions by the directors of the Corporation; and
- (vi) inform the residents of the City of the expectations, principles, directions and restrictions given by the City to the Corporation; and

NOW THEREFORE THIS DIRECTION AND DECLARATION MADE AND ISSUED BY THE CITY OF HAMILTON TO HAMILTON UTILITIES CORPORATION WITNESSETH:

ARTICLE 1 – DEFINITIONS

1.01 Definitions: In this Direction and Declaration (including the recitals hereto and this Section), unless the context otherwise necessarily requires, the words and phrases set forth below shall have the meaning provided therefor below, namely:

“**Alectra**” means Alectra Inc., an Ontario corporation having Ontario Corporation Number 1969562, as may be continued, amalgamated or reorganized.

“**Alectra Shareholders’ Agreement**” means a Unanimous Shareholders Agreement made as of January 31, 2017 between Enersource Corporation, Markham Enterprises Corporation, Barrie Hydro Holdings Inc., Vaughan Holdings Inc., Hamilton Utilities Corporation and St. Catharines Hydro Inc., as shareholders, and BPC Energy Corporation, the City of Hamilton, The Corporation of the City of Barrie,

The Corporation of the City of Mississauga, The Corporation of the City of St. Catharines, The Corporation of the City of Vaughan and The Corporation of the City of Markham, as principals, as amended from time to time.

“Applicable Laws” means: (i) all applicable federal, provincial, regional, county, municipal and other governmental laws, statutes and regulations; (ii) all guidelines, rules, ordinances, by-laws, guidelines, directives, policies, standards, codes and similar edicts having the force of law (including, without limitation, official plans, zoning by-laws, development and site plan agreements, building codes and ESA, CSA and Ontario Energy Board codes); and (iii) all orders, rulings, decisions, mandates and other requirements whatsoever of courts, regulatory and administrative bodies and other authorities having jurisdiction.

“Board” means the board of directors of the Corporation.

“City” means the City of Hamilton.

“Corporation” means Hamilton Utilities Corporation, an Ontario corporation having Ontario Corporation Number 1421133, as may be continued, amalgamated or reorganized.

“Council” means the City Council of the City of Hamilton.

“Effective Date” means June 6, 2018.

“HEHCo” means Hamilton Enterprises Holding Corporation., an Ontario corporation having Ontario Corporation Number 1986514, as may be continued, amalgamated or reorganized.

“HUC Declaration” means this Direction and Declaration made and issued by the Shareholder to the Corporation dated June 6, 2018, as amended from time to time.

“Management” means the senior employees of the Corporation who are responsible for the management of and conduct of operations by the Corporation, including the officers of the Corporations except the Chair of the Corporation.

“Prior Shareholder Declarations” means all written declarations made by the Shareholder to the Corporation of the nature of a “unanimous shareholder agreement” under the Ontario *Business Corporations Act* including: (i) the “Original Shareholder Declaration” effective July 1, 2000; (ii) the “Amended and Restated Shareholder Declaration” dated August 31, 2000; (iii) the Shareholder Declaration dated February 28, 2005 and effective March 1, 2005; (iv) the Amended and Restated Shareholder Declaration dated October 20, 2006 and effective November 1, 2006; (v) Resolutions of the Shareholder dated May 12, 2008; and (vi) the Interim Shareholder Declaration dated June 21, 2016 as amended by letters dated November 15, 2016 and January 5, 2017.

“Shareholder” means the City.

“Shareholder Representative” shall have the meaning provided therefor in Section 8.04.

“Subsidiary” has the meaning provided therefor in the Ontario *Business Corporations Act*.

“Timely” means within the time provided herein for a particular action or, if no such provision is made herein, means as quickly as circumstances reasonably allow taking into consideration, in appropriate circumstances, the time available for a decision required by an entity not controllable by the Corporation.

1.02 **OBCA Definitions:** Words and phrases used but not defined herein but that are defined in the Ontario *Business Corporations Act* shall have the meanings provided therefor in such Act.

ARTICLE 2 – TERMINATION OF PRIOR SHAREHOLDER DECLARATIONS

2.01 **Termination:** All of the Prior Shareholder Declarations are terminated effective as of the Effective Date.

ARTICLE 3 –MANAGEMENT OF ALECTRA INTERESTS

3.01 **Fundamental Approach to Alectra Interests:** It is the intention and requirement of the Shareholder, generally, to be fully informed by the Corporation with respect to all material decisions to be made relative to the interests of the Corporation in Alectra, the activities of the Corporation in relation to Alectra and the decisions of the Corporation under the agreements to which the Corporation is a party or bound relating to Alectra. Certain specific requirements of the Shareholder in such regards are provided for in the other Sections of this Article.

3.02 **Alectra Directors:** : All the Corporation's appointees to the board of directors of Alectra shall be residents of the city of Hamilton. Subject to the foregoing, the Corporation shall cause the Nominating Committee constituted for the purposes of this HUC Declaration to use the same criteria and follow the same procedure to make a timely report and recommendation to the Shareholder of candidates qualified for the City to select as the Corporation's appointees to the board of directors of Alectra. The Corporation shall not, without the approval of the Shareholder, place forward or nominate any appointee or nominee of the Corporation to the board of directors of Alectra. Once selected by the Shareholder, the Corporation shall notify Alectra of the appointees to the board of directors of Alectra selected by the Shareholder.

3.03 **Specific Matters Requiring Shareholder Approval:** Without first having obtained the written approval of the Shareholder, the Corporation shall not itself take any action or acquiesce in any action by another that would:

- (i) be an approval, consent or waiver by the Corporation under or pursuant to the Alectra Shareholder Agreement;
- (ii) amend or terminate the Alectra Shareholders Agreement; or
- (iii) enforce or exercise any right or remedy of the Corporation under the Alectra Shareholders Agreement.

The Shareholder shall endeavor to provide the Corporation in a Timely manner with a decision with respect to actions advised by the Corporation to the Shareholder for which the Shareholder may or may not grant approval. Notwithstanding the foregoing, in the event that the Corporation has not received written approval of the Shareholder in a Timely manner after having provided a

written notice to the Shareholder pursuant to this Section, should the Board determine on a reasonable and good faith basis that, in the best interests of the Corporation or in order to avoid a material breach by the Corporation under the Alectra Shareholders Agreement, the Corporation must act in relation to a matter of which the Corporation gave the Shareholder written notice pursuant to this Section, the Board may take such action as it determines is warranted. Promptly after taking any such action, the Corporation shall notify the Shareholder of the action taken accompanied by a detailed explanation of the basis upon which such action was taken. Provided circumstances allow, the Board will cause the Corporation to act in relation to a matter with respect to which the Board has acted without the written approval of the Shareholder pursuant to this Section in accordance with any written direction given by the Shareholder to the Corporation after the Board has so acted.

3.04 **Alectra Financial Statements & Corporation Report:** The Corporation shall forthwith deliver to the Shareholder copies of all audited financial statements and the quarterly reports received by the Corporation as a shareholder of Alectra forthwith upon receipt thereof, together with (upon request by the Shareholder with respect to the annual and quarterly financial statements): (i) a written report providing such background, additional information and analysis concerning such materials as the Corporation regards as necessary to understand the materials provided; and (ii) a recommendation to the Shareholder for any response to Alectra that the Corporation regards as appropriate in response to such materials.

3.05 **Notice to Shareholder:** The Corporation shall provide written notice of the following to the Shareholder in as Timely a manner as practicable following written receipt by the Corporation of relevant information:

- (i) **Notices:** each notice received by the Corporation under or pursuant to the Alectra Shareholders Agreement or otherwise in relation to Alectra;
- (ii) **Strategic Plans:** each successive Strategic Plan (including business plan and asset management plan) for Alectra;
- (iii) **Changes to Strategic Plan:** each change to the Strategic Plan (including any business plan or asset management plan) of Alectra proposed or approved by the board of Alectra;
- (iv) **Approvals, Consents and Waivers:** each request for an approval, consent or waiver received by the Corporation as a shareholder of Alectra pursuant to the Alectra Shareholders Agreement;
- (v) **Transfers:** any proposed transfer or transfer of ownership of shares or securities of Alectra;
- (vi) **Sections 2.20 and 2.21 Actions:** any action taken pursuant to a “Unanimous Shareholders Approval” under Section 2.20 of the Alectra Shareholders Agreement and pursuant to any Special Shareholder Approval under Section 2.21 of the Alectra Shareholders Agreement; and
- (vii) **Breaches:** any breach by a party to the Alectra Shareholders Agreement.

Each such notice shall be accompanied by: (i) a written report providing such background and additional information concerning such materials as the Corporation regards as necessary to

understand the materials provided; (ii) an analysis of such materials; and (iii) a recommendation to the Shareholder for any response that the Corporation regards as appropriate in response to such materials. If it is not practicable for a notice pursuant to this Section to be accompanied by such analysis and recommendation, the analysis and recommendation shall be provided to the City at the earliest practicable time following such notice.

3.06 **Responses by the Corporation:** The Corporation shall provide to Alectra any response to a notice received by the Shareholder from the Corporation pursuant to Section 3.05 of which the Shareholder gives the Corporation written notice. If the Shareholder gives the Corporation written notice in respect of any matter concerning Alectra or the Alectra Shareholders Agreement, the Corporation shall only act in a manner that it is authorized by such notice and at all times in furtherance of and consistent with such notice.

ARTICLE 4 – PERMITTED & PROHIBITED ACTIVITIES

4.01 **Businesses Permitted:** The sole and exclusive business that the Corporation may have and conduct are:

- (i) owning shares and securities of Alectra; and
- (ii) administering the ownership by the Corporation of shares and securities of Alectra and the receipt and disbursement of monies related to such ownership, including the relationship of the Corporation under the Alectra Shareholders Agreement.

The Corporation shall not, directly or indirectly, own howsoever any shares, securities, assets or interests therein or have any business or business interests, activities or undertaking whatsoever other than the forgoing. The business conducted by the Corporation must be conducted in a manner compliant with this HUC Declaration.

4.02 **No Sale or Encumbering of Alectra Shares or Interests:** Without first having obtained the approval of the Shareholder, the Corporation shall not:

- (i) sell, or otherwise alienate howsoever, or grant or allow to exist any security interest on any of the shares or securities of Alectra owned by the Corporation
- (ii) grant any security interest on the interests of the Corporation in or under the Alectra Shareholders Agreement or any other agreement to which the Corporation is a party or by which the Corporation is bound relating to the interests of the Corporation in Alectra.

4.03 **No Subsidiaries or Other Subordinate Vehicles:** The Corporation: (i) shall not have any Subsidiaries; and (ii) shall not have any ownership interests in any corporation, partnership, unincorporated association, trust, fund or other legal entity of any kind whatsoever except as permitted by Section 4.01.

ARTICLE 5 - EXPECTATIONS AND PRINCIPLES

5.01 **Shareholder Expectations:** It is the expectation of the Shareholder that the Corporation:

- (i) shall forthwith pay to the Shareholder the full amount of all distributions received by the Corporation attributable to the ownership of the Corporation of the shares, securities, assets or interests of or in Alectra, including dividends on the shares and securities of Alectra and distributions made under the Alectra Shareholders Agreement, after deducting only a reasonable amount: (1) to pay the operating expenses of the Corporation; and (2) to either pay or as a reserve to pay taxes payable or projected to be payable by the Corporation;
- (ii) will develop and maintain a prudent financial and capitalization structure consistent with sound financial principles, which will be established on the basis that the Corporation is intended to be financially self-sufficient;
- (iii) will manage all risks related to the business of the Corporation through the adoption of appropriate risk management strategies and internal controls consistent with industry norms; and
- (iv) will develop a long range strategic plan which is consistent with the maintenance of a viable business and preserves the value of its business.

5.02 **Directors Responsible:** The directors of the Corporation shall be responsible for determining and implementing the appropriate balance among the expectations set forth in Section 5.01 and for causing the Corporation to conduct its activities in accordance with such determination.

ARTICLE 6 - DIRECTORS

6.01 **Additional Definitions:** For purposes of this Article, the words and phrases set forth below shall have the meaning provided therefor below, namely:

“**Mayor**” shall have the meaning provided therefor in Section 6.03(1).

“**Mayor’s Surrogate**” shall have the meaning provided therefor in Section 6.03(1).

6.02 **Mandate of the Board:** Excepting matters requiring approval of the Shareholder under either the Ontario *Business Corporations Act* or this HUC Declaration, the mandate of the Board is to recommend the strategic direction for the Corporation to the Shareholder and to implement the strategic direction for the Corporation as approved by the Shareholder and to supervise and oversee the business, the affairs, and the Management of the Corporation in addition to such other duties and responsibilities as are required by Applicable Laws. The Board should consider and, if warranted, approve all significant decisions that affect the Corporation before they are implemented, and review the results. For matters requiring approval of the Shareholder under either the Ontario *Business Corporations Act* or this HUC Declaration, the mandate of the Board is to provide the Shareholder with a Timely report and recommendation.

6.03 **Number of Directors for the Corporation:** Initially, the Corporation shall have six (6) directors. The Corporation may, from time to time, change the number of Directors that the Corporation shall have by special resolution of the Shareholder.

6.04 **Composition of Board:** The directors of the Corporation shall at all times include:

- (i) the Mayor of the City (the "**Mayor**") or, should the Mayor either: (1) decline to serve as a director of the Corporation or (2) be a director of Alectra, a member of Council selected by the Council from time to time to serve instead of the Mayor (the "**Mayor's Surrogate**"); and
- (ii) five (5) individuals who are not members of Council or the administration of the City. A director of HEHCo may serve as a director of the Corporation.

6.05 **Qualifications of Directors:** When selecting persons to recommend to the Shareholder to be directors of the Corporation, the Nominating Committee of the Board and the Board will, generally, consider all of qualifications of candidates including sound judgment and personal integrity. In evaluating and nominating potential independent nominees for the Board, the Nominating Committee shall strive to achieve a Board composed of members that, as a group, have skills, experience and expertise in, among other things corporate and/or public management including strategic planning, governance, finance, project development and operations, regulated energy services, environmental matters, municipally-owned corporations and government relations. Preference may be given to qualified candidates who are residents of the City of Hamilton, however non-residents of the City of Hamilton shall not be excluded from serving as directors of the Corporation. Notwithstanding the foregoing, the majority of Directors shall be residents of the city of Hamilton. Candidates for being a director of the Corporation must consent to the disclosure of his or her director's remuneration to Council for the City of Hamilton and placed on the public record each fiscal year in a form and with sufficient details as prescribed by the Shareholder from time to time.

6.06 **Procedure to select Directors:** The Nominating Committee of the Board shall establish a process, and follow such process, to broadly canvass for (including advertising), identify, evaluate and validate, select and recommend to the Board candidates acceptable to the Nominating Committee to be Private Directors (as defined in Section 6.07 (iii)) of the Corporation. The Board shall select from the candidates for Private Directors recommended by the Nominating Committee the persons to be recommended by the Board to the Shareholder to be Private Directors of the Corporation. The Shareholder must approve each candidate for a Private Director prior to the candidate being appointed and elected as a Private Director of the Corporation. The Shareholder may accept or reject, but not substitute for, any person proposed to Council to be a Private Director.

6.07 **Term of Directors:** The terms of the various directors on the Board shall be:

- (i) **Mayor:** The Mayor shall be eligible to serve as director of the Corporation throughout the term of the Mayor as mayor of the City;
- (ii) **Mayor's Surrogate:** The term of any person serving as director on the Board as the Mayor's Surrogate shall end upon the earlier of: (1) the end of that person's term as a Councillor for the City; (2) the end of the term of the Mayor as mayor of the City; as the case may be; and
- (iii) **Private Directors:** Each person serving as a director of the Corporation other than the Mayor and the Mayor's Surrogate (a "**Private Director**") shall be elected to serve as a member of the Board for a term of three years. The terms of the Private

Directors shall be arranged such that the terms of approximately one-third of the Private Directors will expire each year.

6.08 **Chair:** The Board shall appoint the Chair of the Board and the Chair and Vice Chair, if any, of each committee of Board.

6.09 **Committees:** The Board may establish committees of the Board at its discretion. The Shareholder anticipates that the Board will establish the following committees:

- (i) Audit and Risk Management Committee, to review financial results and to provide direction relative to risk-related matters; and
- (ii) Nominating Committee, to fulfil the responsibilities provided in Section 6.06.

6.10 **Directors' Compensation:** The compensation of the directors of the Corporation will be determined by the Board from time to time in an amount sufficient to attract and retain directors with the necessary qualifications and on the recommendation of any Committee of the Board who shall consult with an independent consultant.

6.11 **Disclosure of Compensation:** The remuneration received from the Corporation by each director of the Corporation shall be disclosed to the Shareholder each fiscal year in a form and with sufficient details as prescribed by the Shareholder from time to time and may be placed by the Shareholder in the public record, and each director of the Corporation must irrevocably agree thereto as a precondition to becoming and continuing to be a director of the Corporation.

6.12 **Directors' Insurance:** The Corporation shall carry Directors and Officers Liability Insurance for the directors and officers of the Corporation in an amount and upon terms consistent with industry norms as determined by the Board or by any Committee of the Board.

ARTICLE 7 – CONDUCT OF ACTIVITIES

7.01 **Requirements:** The directors, officers and Management of the Corporation shall conduct their activities in accordance with the requirements of:

- (i) the Ontario *Business Corporations Act* and other Applicable Laws including, particularly, the provisions thereof dealing with conflict of interest;
- (i) this HUC Declaration;
- (iii) the Articles of the Corporation;
- (iv) the By-Laws of the Corporation;
- (v) the corporate policies, codes and values of the Corporation; and
- (vi) the charters established by the Board for the various committees of the Board.

These requirements are listed in order of precedence; and, in the event any requirement is in conflict with another requirement, the requirement with the higher precedence shall prevail and govern.

ARTICLE 8 - SHAREHOLDER MATTERS

8.01 **Matters Requiring Shareholder Approval:** Without first having obtained the approval of the Shareholder, the Corporation shall not, either directly or indirectly:

- (i) **Requisite Statutory Approvals:** enter into any transaction or take any action that requires the approval of the shareholder(s) of a corporation under the Ontario *Business Corporations Act* or under any other Applicable Laws;
- (ii) **Agreement Approvals:** enter into any transaction or take any action that requires the approval of the Shareholder under this HUC Declaration;
- (iii) **Shares and Securities:** issue, purchase, approve the transfer, sell, redeem, retract, convert, divide, contract or otherwise deal with howsoever any of its shares or securities or the terms or conditions thereof or enter into any agreement or warrant to do any of the foregoing;
- (iv) **Purchases and Sales:** make any acquisition or disposition of assets howsoever (including, without limitation, by way of subscription, lease, exchange, merger, arrangement, consolidation or other corporate reorganization);
- (v) **Dividends & Distributions:** declare any dividend or make any other distribution to the Shareholder except by the Board exercising its discretion having regard to the principles set out in any Dividend and/or Distribution Policy approved by the Shareholder;
- (vi) **Financial Transactions:**
 - (1) borrow any funds;
 - (2) make any capital expenditure;
 - (3) loan any funds to any entity;
 - (4) grant any guarantee of indebtedness or performance or provide financial assistance howsoever to any entity;
 - (5) grant any security; or
 - (6) invest any funds in any securities other than the debt of governments of Canada or any Canadian province or debt of Canadian chartered banks;
- (vii) **Non Arms-Length Transactions:** effect any transaction with any entity who does not deal at arm's length (as that term is interpreted under the *Income Tax Act* of Canada) with the Corporation or any director, officer or employee of the Corporation. The provisions of this paragraph do not apply to remuneration paid in the normal course of business to directors, officers and employees of the Corporation including, without limitation, fees, honoraria, wages, salaries and bonuses or any reimbursement for expenses incurred in performing duties.;
- (viii) **Changes in Status:** make any decision that would materially and adversely affect the tax or regulatory status of the Corporation;

- (ix) **Wind-up or Dissolution**: take any steps to wind-up or dissolve the Corporation;
- (x) **Litigation**: initiate any litigation, arbitration or other like proceedings against the Shareholder, any of its agencies local boards, or administrative subdivisions or any corporation or other body owned or controlled by the Shareholder or any director, officer, official, elected member or employee (including full-time, part-time and contract employees) of any of the foregoing entities in this Section 8.01(x);
- (xi) **Dividend Policy or Distribution Policy**: establish any dividend and/or distribution policy for the Corporation; and
- (xii) **Compliance with Agreement**: conduct any activities not allowed by this HUC Declaration.

8.02 **Materials to Accompany Approval Requests**: Requests by the Corporation to the Shareholder for approvals in relation to Section 8.01 shall be in writing and shall be accompanied by a written analysis and recommendation in connection with the matter in respect of which approval is requested; provided, however, that if it is not practicable for the request to be accompanied by such analysis and recommendation, the analysis and recommendation shall be provided to the Shareholder at the earliest practicable time following such request.

8.03 **Decisions of the Shareholder**: Approvals and decisions of the Shareholder in relation to this HUC Declaration will be given to the Corporation in writing signed by the Shareholder Representative, and approvals and decisions so signed may be relied upon by the Corporation as being the approval and decision of the Shareholder.

8.04 **Shareholder Representative**: The Shareholder hereby designates the City Clerk for the City or such other person as may be designated by the Council of the City from time to time as the legal representative of the Shareholder (the "**Shareholder Representative**") for purposes of: (1) communicating to the Corporation on behalf of the Shareholder any consent or approval required by the Ontario *Business Corporations Act* or providing any consent, approval, direction, communication or any information to be provided by the Shareholder to the Corporation for the purposes of this HUC Declaration; and (2) receiving from the Corporation any communications or information to be provided to the Shareholder by the Corporation for the purposes of this HUC Declaration. All communications for the purposes of this HUC Declaration between the Shareholder and the Corporation shall be transmitted to and from the President of the Corporation, on behalf of the Corporation, and the Shareholders Representative, on behalf of the Shareholder.

8.05 **Unanimous Shareholder Agreement**: This HUC Declaration is intended to be a unanimous shareholders agreement under Section 108 of the Ontario *Business Corporations Act* to the extent, but only to the extent, that it restricts in whole or in part the powers of the directors of the Corporation including, without limitation, in the management or supervising the management of the business and affairs of the Corporation, but is not intended to, and shall not be construed, to be a unanimous shareholders agreement except to such extent.

ARTICLE 9 – REPORTING

9.01 **Major Developments:** The Corporation shall, from time to time, report to the Shareholder Representative and, if requested by the Shareholder Representative, directly to the Council of the City on business developments regarded by the Board as major or adverse results regarded by the Board as material that pertain to the Corporation as the Board determines, in accordance with the standard of care required to be applied by the Board, appropriate to so report.

9.02 **Annual Meetings:** The Corporation shall hold its Annual Meeting each year in satisfaction of the requirements of the Ontario *Business Corporations Act* within six months after the end of each fiscal year of the Corporation.

9.03 **Annual Meeting Report:** In the course of each Annual Meeting of the Corporation, either the Chair of the Board or the President of the Corporation shall report with respect to the Corporation and Alectra (to the extent that information is available to the Corporation pursuant to the Alectra Shareholders Agreement or otherwise becomes available to the Corporation) and that is appropriate having regard to the forum, competitive position and confidentiality obligations of the Corporation in the following areas: (i) the business activities and prospects; (ii) any updates to strategic plans or business plans; (iii) business performance; (iv) financial performance and existing or potential tax liabilities; (v) any changes to corporate organization; and (vi) current and projected dividends. The Corporation will invite Management of Alectra to provide the Shareholder with an update on Alectra's activities, particularly as they relate to items (i) to (vi) in this Section.

9.04 **Right of Inspection and Inquiry:** The Corporation shall permit representatives designated by the Shareholder to examine the properties and assets of the Corporation and the financial and other records of the Corporation, at all reasonable times, as often as may be reasonably requested by the Shareholder, and at the expense of the Shareholder. The Corporation shall cause to be answered fully and fairly any inquiries that such representatives may have; and such representatives may, in the course of their investigations, discuss the business and affairs of the Corporation with the officers, employees and auditor of the Corporation.

ARTICLE 10 - GENERAL

10.01 **Paramountcy:** In the event of any inconsistency between the provisions of this HUC Declaration and of the by-laws of the Corporation, the provisions of this HUC Declaration shall prevail to the extent of the conflict.

10.02 **Revisions:** The Shareholder will endeavor to consult with the Board prior to completing any revisions to this HUC Declaration and will promptly provide the Board with copies of each such revision.

10.03 **Governing Law:** This HUC Declaration shall be governed by and construed in accordance with the laws applicable in the Province of Ontario.

10.04 **Legislation, Regulations, Codes and Rules:** Any reference in this HUC Declaration to all or any part of any law, statute, regulation, code or rule shall, unless otherwise expressly stated herein, be a reference to the statute, regulation, code or rule, or part thereof, as amended from time to time.

10.05 **Article, Section, Subsection and Item References:** The division of this HUC Declaration into Articles, Sections and Subsections is for convenience of reference only and shall not affect or be considered to affect the construction or interpretation of the provisions of this HUC Declaration. References in this HUC Declaration to an Article, Section or Subsection shall mean a reference to an Article, Section or Subsection within this HUC Declaration unless otherwise specified.

10.06 **Headings:** The headings of Articles, Sections and Subsections in this HUC Declaration, are inserted for convenience of reference only and shall not affect or be considered to affect the construction or interpretation of the provisions of this HUC Declaration.

10.07 **No Third Party Beneficiaries:** Nothing in this HUC Declaration shall entitle any entity other than the Shareholder to any claim, cause of action, remedy or right of any kind in respect of this HUC Declaration or the subject matter of this HUC Declaration.

10.08 **Effective Date:** Notwithstanding the date of execution hereof by the City and the date of delivery hereof by the City to the Corporation, this HUC Declaration shall become effective on the Effective Date.

DATED and DELIVERED at Hamilton, Ontario as of the 6th day of June, 2018.

CITY OF HAMILTON

By: _____
Name:
Title:

By: _____
Name:
Title: