

Item:



Special Council Meeting

DATE: Friday, June 08, 2018

WARD(S): ALL

TITLE: Alectra Shareholders Resolution and Amendments to Shareholders Agreement (“USA”)

FROM:

Laura Mirabella, Chief Financial Officer and City Treasurer

Claudia Storto, City Solicitor

ACTION: DECISION

Purpose

To seek Council approval on amendments to Alectra’s Unanimous Shareholders Agreement as outlined in the attached and to execute the Shareholders Amending Agreement No. 1.

Recommendations

1. That the City of Vaughan approve the resolutions of the shareholders of Alectra Inc. with respect to amendments to the Unanimous Shareholders Agreement, as per Attachment 1;
2. That the Mayor and City Clerk are hereby authorized to execute the Shareholders Amending Agreement No. 1 on behalf of the City, as per Attachment 1.

Report Highlights

- The Board of Directors of Alectra Inc. is requesting minor amendments to Alectra's Unanimous Shareholders Agreement (USA).
- The shareholders of Alectra Inc. are requested to approve these amendments on or prior to Alectra Inc.'s Annual General Meeting (AGM) on June 15, 2018.
- These amendments to the USA include:
 - change the time for providing quarterly reports to Shareholders from 45 days to 60 days after the end of the first three fiscal quarters of each Fiscal Year
 - change Subsection 2.21(1)(d), Subsection 4.2(1) and Subsection 4.2(2) by adding the word "equity" after the word "other" in each of these Subsections.
- The proposed changes provide clarification in the language of the USA, namely to require Shareholder approval for the issuing of additional equity securities, and not for debt securities.
- The Board of Directors of Vaughan Holdings Inc. (VHI) has approved these amendments on June 8, 2018

Background

The three-way merger of PowerStream Inc., Enersource Corporation, Horizon Holdings Inc. and subsequent acquisition of Hydro One Brampton was finalized on January 31, 2017. The newly merged entity, Alectra Inc., was created with formal execution of the Merger Participating Agreement (MPA) and Unanimous Shareholders Agreement (USA) between all Shareholders. Vaughan Holdings Inc. (VHI) has a 21.49% equity ownership of Alectra Inc.

Previous Reports/Authority

N/A

Analysis and Options

The Board of Directors of Alectra Inc. is requesting minor amendments to Alectra's USA. The first proposed amendment would change the time for providing quarterly reports to Shareholders, as specified in Section 2.26, from 45 days to 60 days after the end of the first three fiscal quarters of each Fiscal Year. This change would make it more practical for business operations and conforms with Alectra's obligation to its Debenture holders.

The additional amendments are with respect to Subsections 2.21(1)(d), Subsection 4.2(1), and Subsection 4.2(2) of the USA. The details of the proposed amendments are as follows:

- Subsections 2.21(1)(d) of the USA is amended by adding the word “equity” after the word “other” in the first line and sixth line thereof;
- Subsections 4.2(1) of the USA is amended by adding the word “equity” after the word “other” in the third line thereof;
- Subsections 4.2(2) of the USA is amended by adding the word “equity” after the word “other” in the second line and fifth line thereof;

The existing language for these Subsections has the consequence of requiring Shareholder approval whenever Alectra goes to the debt bond market or short-term commercial paper market in the normal course of business to meet its ongoing financing needs. Alectra believes that the proposed changes reflect the original intent of this section, namely to require Shareholder approval for the issuing of additional equity securities, and not for debt securities. The revised language in each of the impacted sections is included in Attachment 1 - Shareholders’ Amending Agreement No. 1.

The Board of Directors of Vaughan Holdings Inc (VHI) has approved these amendments on June 8, 2018, subject to City of Vaughan Council approval.

Financial Impact

N/A

Broader Regional Impacts/Considerations

N/A

Conclusion

Alectra Inc.’s Board of Directors is requesting shareholders approve proposed amendments to Alectra’s USA on or before its June 15, 2018 Annual General Meeting. It is recommended that the City of Vaughan approve the resolutions from Alectra Inc. and execute the Shareholders Amending Agreement No. 1.

For more information, please contact:

Laura Mirabella, Chief Financial Officer and City Treasurer
Claudia Storto, City Solicitor
Rita Selvaggi, Interim Director of Financial Planning & Development Finance &
Deputy City Treasurer

Attachments

1. Shareholders' Amending Agreement No. 1, date June *, 2018

Prepared by

Alex Ly, Senior Analyst, Investments

SHAREHOLDERS' AMENDING AGREEMENT NO. 1

BETWEEN

ENERSOURCE CORPORATION, MARKHAM ENTERPRISES CORPORATION, BARRIE HYDRO HOLDINGS INC., VAUGHAN HOLDINGS INC., HAMILTON UTILITIES CORPORATION and ST. CATHARINES HYDRO INC.

as shareholders

AND

EACH OF THE PERSONS LISTED IN SCHEDULE A HERETO

as principals

AND

ALECTRA INC.

DATED JUNE ●, 2018

SHAREHOLDERS' AMENDING AGREEMENT NO. 1

THIS UNANIMOUS SHAREHOLDERS' AMENDING AGREEMENT NO. 1 is made as of June ●, 2018, between Enersource Corporation, a corporation incorporated under the laws of the Province of Ontario ("**Enersource**"), Markham Enterprises Corporation, a corporation incorporated under the laws of the Province of Ontario ("**Markham Enterprises**"), Barrie Hydro Holdings Inc., a corporation incorporated under the laws of the Province of Ontario ("**Barrie Hydro**"), Vaughan Holdings Inc., a corporation incorporated under the laws of the Province of Ontario ("**Vaughan Holdings**"), Hamilton Utilities Corporation, a corporation incorporated under the laws of the Province of Ontario ("**Hamilton Utilities**") and St. Catharines Hydro Inc., a corporation incorporated under the laws of the Province of Ontario ("**St. Catharines Hydro**"), as shareholders, each of the Persons listed in Schedule A, as principals, and Alectra Inc., a corporation existing under the laws of the Province of Ontario (the "**Corporation**").

WHEREAS the Shareholders, the Principals and the Corporation are party to a Unanimous Shareholders Agreement for the Corporation made as of January 31, 2017 (the "**USA**");

AND WHEREAS the Shareholders, the Principals and the Corporation desire to make certain amendments to the USA;

AND WHEREAS all capitalized terms not otherwise defined herein have the meanings ascribed thereto in the USA;

NOW THEREFORE for good and valid consideration (the receipt and sufficiency of which is hereby acknowledged), the parties hereto covenant and agree as follows:

1. Subsection 2.2(1)(d) of the USA is hereby amended by adding thereto the word "equity" between the word "other" and "securities" in both the first line and sixth line thereof, such that subsection 2.21(1)(d) shall henceforth read as follows:

"(d) the allotting, reserving, setting aside or issuing any Shares or other equity securities of the Corporation (other than Solar Shares and Adjustment Shares) or any of its Subsidiaries (including any partnerships in which the Corporation holds a direct or indirect interest) or issuing or granting any rights, warrants or options to purchase, acquire or otherwise obtain any unissued Shares or other equity securities of the Corporation (other than Solar Shares and Adjustment Shares) or any of its Subsidiaries (including any partnerships in which the Corporation holds a direct or indirect interest), except where: (i) the relevant Subsidiary is a general partnership or limited partnership; (ii) the relevant Subsidiary does not operate a business that is regulated by the OEB (other than electricity generation); and (iii) the total aggregate consideration for such securities is less than \$50 million;"

2. Section 2.26 of the USA is hereby amended by deleting therefrom the words "45 days" in the first line thereof, and substituting therefor the words "60 days" in the first line thereof, such that Section 2.26 shall henceforth read as follows:

"Section 2.26 Quarterly Reports

Within sixty days after the end of the first three fiscal quarters of each Fiscal Year, the Board will cause to be prepared (on a consistent basis with the previous fiscal quarter and the

audited financial statements) and submit a quarterly report to the Shareholders. The quarterly report will include:

- (a) quarterly unaudited financial statements for the immediately preceding fiscal quarter; and
- (b) information that is likely to be of material concern to the Shareholders.”

3. Subsection 4.2(1) of the USA is hereby amended by adding thereto the word “equity” after the word “other” in the third line thereof, such that subsection 4.2(1) shall henceforth read as follows:

“Except as the Shareholders may otherwise unanimously agree by separate instrument in writing signed by all Shareholders, any issuance of Voting Shares or other equity securities of the Corporation is subject to this Section 4.2.”

4. Subsection 4.2(2) of the USA is hereby amended by adding thereto the word “equity” after the word “other” in both the second line and the fifth line thereof, such that subsection 4.2(2) shall henceforth read as follows:

“The Corporation must give notice to the Shareholders (an “Offering Notice”) each time an offering of Voting Shares or other equity securities of the Corporation is subject to this Section 4.2. The Offering Notice must specify the terms and conditions of the offering, including (i) that it has been approved in accordance with Section 2.21(1)(d); (ii) the total number of Voting Shares or other equity securities of the Corporation which are being offered (the “Offered Securities”), (iii) the rights, privileges, restrictions, terms and conditions of the Offered Securities (iv) the consideration for each Offered Security (which consideration shall be established from a written offer of a Third Party the Board is willing to accept or on written advice obtained an independent financial advisor) and (v) the closing date which may not be earlier than twenty Business Days from the date the Offering Notice is delivered.”

5. Except as specifically amended herein, the USA remains in full force and effect, unamended.

[Signature Pages to Follow]

IN WITNESS WHEREOF the parties have executed this Agreement.

ENERSOURCE CORPORATION

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

MARKHAM ENTERPRISES CORPORATION

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

BARRIE HYDRO HOLDINGS INC.

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

VAUGHAN HOLDINGS INC.

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

HAMILTON UTILITIES CORPORATION

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

ST. CATHARINES HYDRO INC.

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

BPC ENERGY CORPORATION

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

CITY OF HAMILTON

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

THE CORPORATION OF THE CITY OF BARRIE

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

**THE CORPORATION OF THE CITY OF
MISSISSAUGA**

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

**THE CORPORATION OF THE CITY OF ST.
CATHARINES**

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

**THE CORPORATION OF THE CITY OF
VAUGHAN**

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

**THE CORPORATION OF THE CITY OF
MARKHAM**

Per: _____
Name: _____
Authorized Signatory

Per: _____
Name: _____
Authorized Signatory

ALECTRA INC.

Per: _____

Name:

Authorized Signatory

Per: _____

Name:

Authorized Signatory

SCHEDULE A – PRINCIPALS

<u>Principals</u>	Shareholder for which such Principal is a <u>Principal</u>
BPC Energy Corporation	Enersource
City of Hamilton	Hamilton Utilities
The Corporation of the City of Barrie	Barrie Hydro
The Corporation of the City of Mississauga	Enersource
The Corporation of the City of St. Catharines	St. Catharines Hydro
The Corporation of the City of Vaughan	Vaughan Holdings
The Corporation of the City of Markham	Markham Enterprises