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

DECISION AND ORDER

EB-2016-0155

E.L.K. ENERGY INC.

Application to amend licensed service area in Schedule 1 of electricity distribution licence ED-2003-0015

BEFORE: Cathy Spoel
Presiding Member

Victoria Christie
Board member

Emad Elsayed
Board Member

April 27, 2017

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1 INTRODUCTION AND SUMMARY

E.L.K. Energy Inc. (ELK) filed a service area amendment (SAA) application on June 21, 2016, under Section 74 of the *Ontario Energy Board Act, 1998,* to amend its service area as described in Schedule 1 of its electricity distribution licence ED-2003-0015. The Ontario Energy Board (OEB) has assigned file number EB-2016-0155 to the application.

ELK provides electricity distribution services to the Towns of Essex, Lakeshore, and Kingsville. Within these towns, ELK has six non-contiguous service areas, serving the communities of Belle River, Comber, Cottam, Essex, Harrow and Kingsville.

ELK applied to expand its licensed service area to include specific lands currently located within the licensed service area of Hydro One Networks Inc. (HONI). HONI contested the SAA application.

The lands subject to the SAA application are owned by 1710690 Ontario Inc. (Developer) and Sellick Equipment Limited (Sellick or Customer), are located in the Town of Essex, and are designated for the development of a commercial subdivision.

More specifically:

- The lands owned by the Developer are described as Part Lots 3,4, & 5, PL 202 and Part Lot 6, Concession 2, Colchester, designated as Parts 1,2,& 3, Plan 12R-26189, except PT 1, 26401; S/T easement over Part 2, Plan 12R- 26189 as in CS19391; Town of Essex; and,
- The lands owned by Sellick are described as Part Lots 3 & 4 Registered Plan 202 (being a subdivision of Part of Lots 7 & 8 Concession 2) Geographic Township of Colchester South, now in the Town of Essex, PT. 1 12R-06401; Town of Essex.

In its submission OEB staff objected to ELK's request to include the vacant land owned by the Developer because ELK's evidence did not provide any detailed proposals or specific timelines for connecting the Developer. OEB staff submitted that the scope of this proceeding should be limited to Sellick's development area only. In its reply submission ELK withdrew its request to include the lands owned by the Developer. Accordingly, the scope of this proceeding is limited to Sellick's lands.

The Customer requested an offer to connect from ELK as well as from HONI. The Customer subsequently made a written request stating its preference that ELK provide electricity distribution service to its facility.

The OEB approves ELK's application to amend its service area to supply electricity distribution services to Sellick. The OEB finds that amending ELK's licensed service area in Schedule 1 of its electricity distribution license (ED-2003-0015) to include Part Lots 3 & 4 Registered Plan 202 (being a subdivision of Part of Lots 7 & 8 Concession 2) Geographic Township of Colchester South, now in the Town of Essex, PT. 1 12R-06401 Town of Essex, to be in the public interest.

The OEB notes that Schedule 1 of HONI's licence is presented in a way that will not require an amendment as a result of this decision.

2 THE PROCESS

The OEB issued a Notice of Application and Hearing (Notice) on July 26, 2016. ELK served and published the Notice as directed.

The OEB issued Procedural Order No.1 on August 9, 2016, setting dates for interrogatories on ELK's evidence, written submissions and other procedural steps.

The OEB approved the Corporation of the Town of Essex's application for intervenor status. HONI, the Developer and the Customer were deemed to be intervenors in this proceeding.

On September 22, 2016, HONI filed its evidence regarding the application and on October 20, 2016, filed its responses to interrogatories on that evidence from OEB staff and ELK.

On October 6, 2016, ELK filed updated evidence, which included its amended offer to connect the Customer (dated October 3, 2016). On November 1, 2016, the OEB issued Procedural Order No. 2, which amended various procedural steps for the proceeding and made provision for interrogatories on the new evidence filed by ELK. ELK responded to these interrogatories on November 10, 2016. In accordance with Procedural Order No. 2, OEB staff and HONI filed their written submissions on the application on November 18, 2016. ELK filed its reply submission on November 30, 2016.

On December 20, 2016, the OEB issued Procedural Order No. 3 setting a date of January 6, 2017 to hold a one-day oral hearing on connection cost and economic efficiency issues and the impact on ELK and HONI's customers' distribution rates.

On January 3, 2017, ELK filed a letter with the OEB requesting a rescheduling of the oral hearing to a later date. The OEB approved the request and rescheduled the oral hearing, which was held on February 9, 2017.

On February 15, 2017, ELK filed its argument-in-chief.

On February 24, 2017, HONI filed its final submission.

On March 2, 2017, ELK filed its reply submission.

After the filing of final submissions and until the issuance of this decision, a number of additional materials were filed on the public record of this proceeding. These were also considered by the OEB.

3 FINDINGS

This proceeding has been unique in a number of ways. Firstly, it has been challenging to obtain sufficient information to make this decision. As a result, the OEB required two sets of interrogatories and an oral hearing to try to fill the gaps. Secondly, there have been numerous revisions and corrections to the evidence throughout the proceeding which made it difficult to determine which data represents the latest and most accurate information. Thirdly, both the applicant (ELK) and the incumbent distributor (HONI) have presented significantly different versions of the same parameters based on significantly different assumptions to support their respective positions.

As a result of the above, the OEB is making this decision on the basis of what it considers to be the best available evidence which, in some instances has to be qualitative rather than quantitative. The OEB has conducted additional analysis of the evidence to aid in the decision-making process.

The typical tests applied in contested SAA applications relate to the distribution infrastructure required to serve new load, safety and reliability, economic efficiency and customer preference. In reviewing the evidence related to each of these four factors, the OEB finds that the impacts on each factor from ELK and HONI's proposals are either comparable or in favour of ELK. These four factors are addressed in more detail in the following sub-sections.

In reaching a decision with respect to this application, the OEB was guided by the principles articulated in the OEB's Decision with Reasons in the RP-2003-0044 combined service area amendments proceeding (the RP-2003-0044 Decision). In the RP-2003-0044 Decision, the OEB stated that economic efficiency should be a primary principle in assessing the merits of an SAA application.

The OEB stated:

> "The Board finds that amendments that involve contiguous distribution companies, but that are opposed by the incumbent distributor, may be in the public interest where the amendment results in the most effective use of existing distribution infrastructure, and a lower incremental cost of connection for the customer or group of customers." (paragraph197)

3.1 Distribution Infrastructure

The evidence demonstrates that both ELK and HONI have well developed distribution facilities that are adjacent to the proposed service amendment area.

Although both distributors will be connecting the Customer to the M7 feeder, owned and operated by HONI, ELK has an existing pole located in very close proximity to the Customer's property to draw power from the M7 feeder. HONI, on the other hand, would have to install two new poles to be able to connect the Customer. At the oral hearing, HONI stated that if HONI were to connect the Customer, the use of ELK's existing pole would result in a more economically efficient connection[1].

HONI is the physical owner and operator of the M7 feeder, both upstream from Kingsville TS to Harrow North PME, on the dogleg from Harrow North PME to Harrow West, and downstream from Harrow West. HONI has the responsibility to operate, maintain, inspect, repair and replace the M7 feeder for all customers served off it.

ELK has a responsibility for the operations, maintenance and repair or replacement of the wholesale meter at Harrow North PME. The wholesale meter at Harrow North PME is necessary because ELK is a wholesale market participant. Having that one meter at Harrow North PME is less costly and easier to manage than having a separate meter at each point along the M7 dogleg from Harrow North PME to Harrow West where ELK taps on to M7 with its distribution network to service ELK's customers on the western portion of Harrow.

Findings

The OEB finds that while both ELK and HONI are well placed to provide the distribution infrastructure to serve the Customer, ELK has a slight advantage with the location of its existing pole. Other incremental distribution infrastructure resources and costs associated with either ELK or HONI serving the Customer are minimal.

The OEB finds that, as the owner and operator of the M7 feeder, HONI will face minimal incremental costs and responsibilities for the M7 feeder, regardless of who provides the Customer with the service. The M7 feeder has unused capacity and needs no upgrade

[1] Transcript, Vol. 1 (February 9, 2017) page 105

or reinforcement to accommodate the Customer's forecasted additional peak load. In addition, HONI has the responsibility to operate, maintain, inspect, repair and replace the M7 feeder for all customers fed off it, whether they are HONI's own customers or ELK's customers.

The OEB finds that, likewise, ELK will not incur additional costs or work for the investment in, and maintenance of, its wholesale meter at Harrow North PME, nor will it face material costs for the billing and settlement with the Independent Electricity System Operator (IESO), regardless of which distributor connects the Customer. The wholesale meter already exists and requires no upgrade to service the Customer. The additional customer load should not materially impact the cost and level of effort for settling with the IESO as this is a routine monthly financial transaction.

The only incremental costs that the distributor servicing the Customer will face will be those associated with operating, maintaining, inspecting, repairing and replacing the services provided to connect the Customer to the distributor's network – either the tap from the M7 feeder if served by HONI, or from ELK's tap from the M7 feeder at the intersection of Roseborough Road and Clark Street if served by ELK. Both of these are relatively short lengths of conductor, and should require minimal cost for operations and maintenance, except in an emergency.

3.2 Safety, Service Quality and Reliability

The evidence demonstrates that both distributors are in a relatively equal position to serve the Customer from a safety, service quality and reliability perspective.

The Customer will be served upstream from HONI's M7 feeder. Since ELK is an embedded distributor to HONI, there are no long-term impacts related to reliability, as HONI's M7 feeder will be utilized regardless of which distributor serves the Customer.

However, HONI pointed out during the oral hearing and in its argument that approving the SAA and the connection of the Customer to ELK would create a dented border that might result in confusion and/or additional work, costs and time[2]. Specifically, if the Customer reported an interruption, ELK would potentially have to check the connection

[2] Transcript, Vol. 1, (February 9, 2017), p. 107/ll. 7-17

and then, if it determined that the source was on HONI's M7 feeder, contact HONI to come and investigate.[3] HONI further stated that although ELK may be closer to service the Customer, it is likely that HONI would be the distributor that ultimately has to address any problems on its network.

Findings

The OEB finds that safety, service quality and reliability considerations are not significantly different between the two distributors. The OEB further finds that as a practical matter, all parties are likely to become accustomed to the service area amendment, if ELK were the service provider, and any confusion and additional costs would be minimal and not be a factor over the longer term.

With the exception of ELK's wholesale meter at Harrow North PME, and the short line and equipment of the chosen distributor that will connect the Customer to its network, all of the physical assets of the M7 feeder are owned and operated by HONI back to the Kingsville TS. The wholesale meter is unlikely to be a major cause for service outages, and HONI has primary responsibility for, and control of, service reliability on the M7 feeder. As the M7 is a feeder serving many customers of both ELK and HONI, its reliability is likely to be a higher priority in case of a service interruption.

HONI and ELK agree on the responsibilities for service reliability and that both of them would provide the service with similar levels of safety, service quality and reliability.

3.3 Economic Efficiency

Economic efficiency is a key factor to consider with regard to the service area amendment application.

In the RP-2003-0044 Decision, the OEB stated:

> "In summary, the Board finds that significant weight should be given to economic efficiency when assessing an application for a service area amendment. Failure on the part of an applicant to adequately demonstrate the economic efficiency of

[3] It is not known if either ELK or HONI have SCADA systems along M7 or in the Harrow area for early detection of outages.

a service area amendment application will generally constitute sufficient grounds for the Board to turn down the application." (paragraph249)

The application, subsequent submissions and interrogatory responses did not provide a clear picture of the economic efficiency differences between ELK and HONI as service providers. The OEB held an oral hearing to clarify these differences. The hearing addressed the comparisons of the following issues between ELK and HONI as service providers:

- Fully-loaded connection costs;
- Embedded distribution charges to the Customer;
- Revenue shortfall and implications for other HONI and ELK customers.

I. Fully Loaded Connection Costs

In the RP-2003-0044 Decision, the OEB stated that in all instances, the costs associated with the connection should be "the fully loaded costs". The OEB went on to add that "…fully loaded costs capture all of the relevant indirect and direct costs reasonably associated with the project at issue, not merely the price of connection quoted to the prospective connection customer."

ELK and HONI each provided an offer to connect the Customer. The cost estimates in their respective offers to connect are shown in Table 1 below.

Table 1: One-Time Connection Costs

Row ID	Cost Item	Distributor Serving the Customer	
		ELK	**HONI**
1	Non-contestable work (poles, wires, meters)	$8,702.67 (no poles included)	$16,103.17
2	Contestable work	Not required	Not required
3	Civil works	Supplied by Customer	Supplied by Customer
4	Capital Contribution	$0	$0
5	Pole relocation cost (already incurred)	$8,432.49	$0
6			

7[4]	Total including pole relocation cost	$17,135.16	$16,103.17
8			
9	Total excluding pole relocation cost	$8,702.67	$16,103.17

Both HONI and ELK agreed to the non-contestable costs incurred by each of them to connect the Customer, as laid out in the table above. There is, however, disagreement as to whether the ELK pole relocation costs of $8,432.49, already incurred, should be included in the economic efficiency considerations of the application.

ELK has argued that the pole was moved to accommodate municipal roadwork undertaken for the new development, and should not be factored in the costs of serving the Customer. HONI agreed with ELK that the Customer should not have to bear these costs, but argued that the costs should be included in ELK's calculated costs of connection for cost comparison purposes. HONI argued that although there was a need to move the pole for the roadwork, ELK moved it further within HONI territory to be better placed to serve the Customer[5]. ELK disputed this, and noted that the pole was already located within HONI service territory and moving it to the chosen location was the most cost-effective and rational choice[6].

Findings

The OEB finds that ELK's one-time cost to connect the Customer is lower than HONI's, and that the costs to relocate the pole should not be charged to the Customer nor considered in the economic efficiency evaluation.

ELK submitted that the pole was moved to accommodate the municipal roadwork, and that the municipality is paying the cost. The OEB has no reason to doubt this assertion. The OEB finds that, in the event that the road had not been extended, ELK would have had an existing pole in the vicinity from which to serve the Customer, (i.e. it would not have incurred these costs). Further, relocating the pole within HONI's territory to facilitate the roadwork does not provide justification for associating the costs with the connection.

[4] HONI Compendium, Tab 2, page 4, Table 1
[5] HONI, Final Submission, February 24, 2017, p.7.
[6] ELK Reply Submission, March 2, 2017, p.4, Tr., Vol. 1 (February 9, 2017), p69/l.5 to p. 71/l.15.

HONI conceded that these pole relocation costs should not be included in the connection costs that get charged to the Customer:

> "The Customer should not be responsible for relocation charges that resulted from the expansion of a municipal roadway, charges that should be a responsibility of the municipality or, if an arrangement has been made, the Developer."[7]

II. Embedded Distribution Charges to the Customer

According to ELK[8], if ELK serves the Customer, ELK would charge the Customer approximately $49,200/month and if HONI serves the Customer, HONI would charge the Customer approximately $50,100/month. HONI agreed with the $50,100 but believed that ELK would charge the Customer $46,500 rather than $49,200[9].

Findings

A review of the evidence shows that the estimate of the HONI charges to the Customer[10] is erroneous as it was calculated using an incorrect line loss factor. ELK had calculated the HONI charges using a line loss factor of 3.4% (1.0% Generation and Transmission (G&T) losses + 2.4% Sub-transmission Losses). This rate is correct, but ELK used a monthly peak value of 1212 kW (which is the peak of 1200 kW already grossed up with the 1.0% Supply Facilities Loss Factor (SFLF)) instead of the 1200 kW. The SFLF line loss was therefore double-counted.[11] As shown in Table 2 below, a recalculation using a 3.4% total line loss with the 1200 KW yields a total HONI charge to Sellick of $49,618.34/month.

Table 2 also shows that a review of the estimate of the ELK charges to the Customer appears fairly accurate and has been replicated by the OEB in a recalculation at $49,113.88/month, only $51.34/month less than the ELK compendium estimate[12]. The correct total line loss figure of 7.03% was applied to the original analysis.

[7] HONI Intervenor Evidence (September 22, 2016), page 7
[8] Transcript, Vol. 1 (February 9, 2017), pages 36-38 and 79-80
[9] Transcript, Vol. 1 (February 9, 2017), pages 95 and 129
[10] Ex. K 1-1, ELK Compendium, Tab 3, page 3
[11] ibid
[12] ibid

Table 2: Estimated Monthly and Annual Bill for Sellick

	Sellick is a Customer of ELK	Sellick is a Customer of HONI
Rate Class	**GS 50-4999 kW (1),(4)**	**Sub-transmission (2),(4)**
Total Loss Factor	7.03%	3.40%
Monthly Peak (kW)	1200	1200
Adjusted Peak (kW)	1284	1241
Electricity		
Commodity	$ 2,897.13	$ 2,798.87
Global Adjustment	$ 29,055.71	$ 28,070.23
GA rate rider		$ (271.74)
Electricity Total	$ 31,952.84	$ 30,597.36
Delivery		
Service, meter, volumetric and rate riders	$ 2,673.47	$ 2,532.92
Low Voltage	$ 519.84	
Retail transmission Service Rates	$ 4,789.96	$ 7,309.49
Delivery Sub-total	$ 7,983.27	$ 9,842.41
Regulatory	$ 1,687.90	$ 1,630.66
Debt Retirement	$ 1,839.60	$ 1,839.60
Subtotal	$ 43,463.61	$ 43,910.03
HST (13%)	$ 5,650.27	$ 5,708.30
Total Bill to Sellick per Month (average)	$ 49,113.88	$ 49,618.34
Total Bill to Sellick per Year	$ 589,366.58	$ 595,420.02

Notes:

(1) Rates and loss factors from ELK's 2016 Tariff of Rates and Charges approved in EB-2015-0064, March 16, 2016. (3)

(2) Rates and loss factors from HONI's 2016 Tariff of Rates and Charges approved in EB-2015-0079, January 14, 2016 (3)

(3) This approach is consistent with ELK and HONI bill impact analysis provided in their compendiums (K1.1 and K1.2, respectively). Numbers may not match exactly due to rounding and corrections to some rates and loss factors.

(4) Loss factors are applied to demand (kW) or consumption (kWh) rates and charges where appropriate.

The OEB finds that the embedded distribution charges to the Customer will not be materially different whether ELK or HONI becomes the service provider. The Customer pays $6,053.44 or 1.02% less, per year on their total bill if they are served by ELK rather than by HONI.

III. Revenue Shortfall and Implications for Other HONI and ELK Customers

HONI's position is that ELK's revenue shortfall and subsequent impact on other customer rates if Sellick is a customer of ELK is one of the key reasons that ELK's application should be denied. ELK, however, claims that it will suffer a revenue shortfall regardless of whether Sellick is a customer of ELK or a customer of HONI. HONI did not address this issue.

In order to compare the impacts to customers associated with each potential distributor option, the OEB undertook additional analysis of the evidence and existing tariffs to examine the following items:

1. ELK revenue and rate implications if ELK serves the Customer
2. ELK revenue and rate implications if HONI serves the Customer
3. HONI revenue and rate implications if HONI serves the Customer.

The OEB analysis utilized ELK and HONI's approved 2016 Tariffs of Rates and Charges and evidence from the proceeding corrected for line loss and rate errors.[13] The analysis focussed on the revenue shortfalls associated with the LV and RTSR revenues. Other factors such as the IESO commodity and regulatory charges, and the debt retirement charges, are assumed to flow through and not vary dramatically between the potential providers, as both ELK and HONI agreed in their evidence[14].

The LV and RTSR revenue shortfalls would be recorded by the provider in deferral and variance accounts 1550 (LV) and 1584 and 1586 (RTSR). These shortfalls will typically

[13] EB-2015-0064 and EB-2015-0079.
[14] Commodity, regulatory charges, debt retirement charges are assumed to generate no, or no material gain or shortfall. E.L.K.'s witness noted that, because of the presence of E.L.K.'s Wholesale Market Meter at Harrow North PME, E.L.K. settles with the IESO for commodity and regulatory charges. (Tr., Vol. 1 (February 9, 2017), p. 21/ll. 15-23. On p. 31/ll. 22-25, E.L.K.'s witness confirmed that commodity and regulatory charges are charged by the IESO; Hydro One only charges for Sub-Transmission (i.e., distribution). This arrangement holds regardless of which distributor serves Sellick. Per Undertaking J1.1, Sheet "Summary Sheet", numbered rows 13-20 and sheet "Debt Retirement and SSA", Hydro One shows that IESO regulatory charges and Debt Retirement Charge should result in no gain or shortfall.

subsequently be disposed of through rate riders. The customers will see an increase in rates over the longer term as both the LV and RTSR rates would be adjusted upward to reduce future shortfalls, all else being equal.

The distribution revenue that the distributor serving Sellick will receive through the customer distribution rates will not offset the LV and RTSR rate shortfalls directly. However, the increased revenue due to a greater utilisation of assets (without significant cost increases) will lead to a reduction in customer rates over time.

This analysis provides a comparison of the differences between ELK and HONI with regard to the LV and RTSR revenue shortfalls and distribution revenue increases associated with serving Sellick. There is no evidence that rate or rate rider increases or decreases will be material; the evidence is only sufficient to indicate directionality. Table 3 below shows the results of this analysis.

Table 3: Comparison of Revenue Shortfall for ELK

Sellick served by ELK

HONI Charges to ELK

	Annual Revenues	Notes
Sub Transmission	$ 15,563.93	**(3)**
RTSR	$ 90,894.48	

ELK Charges to Sellick

	Annual Revenues	Notes
Distribution (excluding Low Voltage)	$ 32,081.64	
Low Voltage	$ 6,238.08	
RTSR	$ 57,479.54	

ELK's Gain or Shortfall	Notes
$ 32,081.64	
$ (9,325.85)	**(4)**
$(33,414.94)	**(5)**

Sellick served by HONI

HONI Charges to ELK

	Annual Revenues	Notes
Sub Transmission	$ 15,013.44	**(3)**
RTSR	$ 90,894.48	

ELK Charges to HONI

	Annual Revenues	Notes
Distribution (excluding Low Voltage)	$ 25,716.96	
Low Voltage	$ 6,238.08	
RTSR	$ 57,479.54	

HONI Charges to Sellick

	Annual Revenues	Notes
Sub Transmission	$ 30,395.04	
RTSR	$ 87,713.88	

ELK's Gain or Shortfall	Notes
$ 25,716.96	
$ (8,775.36)	**(4)**
$(33,414.94)	**(5)**

Notes:

(1) Analysis assumes ELK's and HONI's approved Tariffs of Rates and Charges for 2016, as approved in EB-2015-0064 for ELK and EB-2015-0079 for HONI.

(2) Based on the record, commodity, regulatory charges, debt retirement charges are assumed to generate no, or no material gain or shortfall. ELK and HONI agree on these points. As ELK has the Wholesale Market Meter at Harrow North PME, ELK settles with the IESO for commodity and regulatory charges. Tr., Vol. 1 (February 9, 2017), p. 21/ll. 15-23. On p. 31/ll. 22-25. HONI only charges for Sub-Transmission (i.e., distribution). This arrangement holds regardless of which distributor serves Sellick. Per Undertaking J1.1, Sheet "Summary Sheet", numbered rows 13-20 and sheet "Debt Retirement and SSA", HONI shows that IESO regulatory charges and Debt Retirement Charge should result in no gain or shortfall.

(3) As ELK, as an embedded distributor, is a Sub Transmission customer of HONI, Monthly Service Charges or other non-volumentric rate riders are not applied.

(4) Variance recovered through Account 1550; LV Rates will subsequently be adjusted upwards to reduce shortfall in future.

(5) Variance recovered through Accounts 1584 and 1586; RTSR rates would subsequently be adjusted upwards to reduce shortfall in future

1. The ELK revenue and rate implications if ELK serves the Customer

Both HONI and ELK agreed that ELK will have a revenue shortfall with respect to LV and RTSR rates if ELK serves the Customer, but they disagreed on the amount of the shortfall. ELK's and HONI's estimates for these impacts on ELK's other customers varied widely. According to HONI, ELK's other customers would be negatively impacted by about $50,000/year if ELK serves the Customer[15], while ELK estimated that impact to be negligible.

As per Table 3 above, the OEB analysis shows that ELK will experience revenue shortfalls of $9,325.85 (LV) and $33,414.94 (RTSR). Distribution revenues from Sellick would be $32,081.64.

2. The ELK revenue and rate implications if HONI serves the Customer

ELK argued that it will also suffer a revenue shortfall if HONI serves the Customer because it can only charge HONI (as the embedded distributor) Low Voltage (LV) rates for the Customer's electricity use, which are less than the Sub Transmission Rates and Retail Transmission Service Rates (RTSR) that HONI charges ELK as an embedded distributor. That is, HONI charges ELK (as embedded distributor) the Sub Transmission Rate and RTSR, ELK charges HONI (as embedded distributor) the LV and RTSR, and HONI charges Sellick the Sub Transmission Rate[16]. HONI agreed with ELK that it will charge ELK the same rates regardless of whether ELK or HONI serves the Customer. HONI also confirmed that ELK would recover exactly the same amounts for LV and RTSR directly from the Customer (if ELK is a service provider) or from HONI (if HONI is a service provider)[17]. The ELK shortfall results from the fact that ELK will only be able to recover (in LV and RTSR's from either Sellick or HONI) a fraction of the amount that HONI charges ELK in the Sub Transmission Rate and RTSR.

As per Table 3 above, the OEB analysis shows that ELK will experience revenue shortfalls of $8,775.36 (LV) and $33,414.94 (RTSR). Distribution revenues from HONI would be $25,716.96.

[15] HONI's final argument, Section 4.0
[16] ELK reply submission – 2017-03-02. P3
[17] ELK reply submission – 2017-03-02. P3 or Exhibit K1.1, Tab 3

3. The HONI revenue and rate implications if HONI serves the Customer

HONI claims that it will have a revenue shortfall of $13,127.98/year if Sellick is its customer, and that this is well below HONI's materiality threshold, so rates would not be adjusted as a result[18]. HONI's other customers would therefore be unaffected by HONI serving the Customer.

The OEB analysis shows that HONI will experience a net electricity commodity shortfall of $16,265.75 (HONI charges to ELK less ELK charges to HONI plus the HONI charges to Sellick). Distribution revenues from Sellick would be $13,453.44.

Findings

The OEB finds that in terms of customer rate implications, ELK would be the preferred distributor to serve the Customer.

The OEB finds that ELK will suffer similar revenue shortfalls, with respect to LV and RTSR revenues, regardless of whether ELK or HONI serves the Customer. This shortfall will ultimately result in higher LV and RTSR rates to ELK's other customers in the near term as the shortfall is disposed from variance accounts through rate riders and over the longer term as rates are adjusted upward through cost of service rates proceedings. The rate increases will be somewhat ameliorated if ELK serves the Customer and benefits from collecting the distribution revenues from it. Without this revenue (i.e. if HONI serves the Customer), ELK's overall shortfall will be higher.

The revenue shortfall for HONI, if it were to serve the Customer, is well below their materiality threshold and so it would have little to no impact on the rates of other customers.

[18] J1_1_ELK Energy_20170216

3.4 Customer Preference

In its application, ELK stated that the Customer prefers that ELK provide the electricity distribution service to its facility. With respect to the weight given to customer preference when assessing SAA applications, in the RP-2003-0044 Decision the OEB stated

> "… the Board finds that customer preference is an important, but not overriding consideration when assessing the merits of a SAA application. Customer choice may become a determining factor where competing offers to the customer(s) are comparable in terms of economic efficiency, system planning and safety and reliability, demonstrably neutral in terms of price impacts on customers of the incumbent and applicant distributor, and where stranding issues are addressed."

Findings

It was not disputed by HONI that the Customer prefers ELK as its electricity distribution service provider.

The OEB notes that although customer preference was considered, it was not a deciding factor in granting this service area amendment

4 CONCLUSION

The OEB approves ELK's application to expand its licensed service area to supply electricity distribution services to a proposed commercial development by Sellick Equipment Limited.

The OEB has weighed the key issues regarding the application and concludes that:

- Both ELK and HONI can put the distribution infrastructure in place to serve the Customer with minimal costs. ELK has the benefit of having a pole already in place that provides the most efficient connection point.

- There is no material difference in the safety, service quality and reliability between either potential provider.

- ELK has proven to be the most economically efficient provider for this Customer. While the connection costs are minimal, ELK's costs are half those of HONI. The Customer's rates are similar between the two providers. Most importantly, ELK will suffer a revenue shortfall if HONI is the provider that would be greater than if ELK provided the service. ELK's other customers would therefore be better off if ELK provides the service to the Customer.

- Sellick would prefer to have ELK provide it with electricity distribution service instead of HONI.

5 ORDER

THE OEB ORDERS THAT:

Schedule 1 of E.L.K. electricity distribution licence (ED-2003-0015 is amended to include the lands described as Part Lots 3 & 4 Registered Plan 202 (being a subdivision of Part of Lots 7 & 8 Concession 2) Geographic Township of Colchester South, now in the Town of Essex, PT. 1 12R-06401; Town of Essex.

DATED at Toronto April 27, 2017

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary