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BY EMAIL

February 13, 2020

Christine E. Long
Registrar and Board Secretary
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto ON M4P 1E4

Dear Ms. Long:

Re: E.L.K. Energy Inc. (E.L.K. Energy)
EB-2019-0029 Application for 2020 Rates

In accordance with Procedural Order No. 1, please find attached OEB staff's submission in the above proceeding.

E.L.K. Energy and all intervenors have been copied on this filing. E.L.K. Energy is reminded that its Reply Submission is due on February 27, 2020.

Yours truly,

Original Signed By

Marc Abramovitz
Rates Advisor, Incentive Rate Setting & Regulatory Accounting

Encl.

ONTARIO ENERGY BOARD

STAFF SUBMISSION

2020 ELECTRICITY DISTRIBUTION RATES

E.L.K. Energy Inc.

EB-2019-0029

February 13, 2020

OEB Staff Submission
E.L.K. Energy Inc.
2020 IRM Rate Application
EB-2019-0029

Introduction

E.L.K. Energy Inc. (E.L.K. Energy) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) seeking approval for changes to its electricity distribution rates to be effective May 1, 2020. The application was filed on November 4, 2019, under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B).

In accordance with Procedural Order No. 1, dated December 19, 2019, E.L.K. Energy filed responses to interrogatories on January 30, 2020.

This document provides OEB staff's submissions based on its review of the evidence submitted by E.L.K. Energy.

Consistent with the Chapter 3 Filing Requirements, E.L.K. Energy applied the Annual IR adjustment factor to adjust the monthly service charge and volumetric distribution rate. As discussed in this submission, OEB staff is of the view that E.L.K. Energy's proposed price cap adjustment to base rates should not be approved.

OEB staff updated E.L.K. Energy's rate generator model to reflect the new 2% inflation factor set by the OEB for 2020[1]. As well, OEB staff updated E.L.K. Energy's model to reflect updates to its Hydro One Sub-Transmission Rates, time-of-use pricing that took effect on November 1, 2019 and the incorporation of the Ontario Electricity Rebate. In response to OEB staff interrogatory #4, E.L.K. Energy confirmed, and stated its agreement with, the changes made by OEB staff. OEB staff submits that E.L.K. Energy should continue to use the updated model included with this submission, if any further updates are required.

OEB staff makes detailed submissions on the following:

- Request for Disposition of Group 1 Accounts
- Retail Transmission Service Rates
- Shared Tax Adjustment
- Return on Equity

[1] Issued on October 31, 2019

Request for Disposition of Group 1 Accounts

The 2018 actual year-end total balance for E.L.K. Energy's Group 1 accounts including interest projected to April 30, 2020 is a debit of $247,594. This amount represents a total debit claim of $0.001 per kWh, which exceeds the OEB's established disposition threshold. E.L.K. Energy proposes the disposition of this debit amount over a one-year period.

In E.L.K. Energy's 2017 rate proceeding, the OEB accepted a settlement proposal[2] between participating parties, which formed a part of the OEB's Decision and Order.[3] Among other things, the settlement provided that Group 1 accounts would be disposed as at December 31, 2015, with the exception of Accounts 1588 and 1589. Accounts 1588 and 1589 are to be included as part of a regulatory audit to be completed before E.L.K. Energy file its next cost of service rebasing application for 2022 rates.[4] Since the regulatory audit has not been conducted yet, E.L.K. Energy is not requesting to dispose of these accounts in this proceeding.

OEB staff agrees that E.L.K. Energy should not be disposing of its 1588 and 1589 account balances in the current proceeding given that E.L.K. Energy has not completed its detailed regulatory audit.

In accordance with the Decision and Order on E.L.K. Energy's 2017 rate application, E.L.K. Energy is required to complete the following three undertakings prior to filing its next cost of service application, which is planned for no later than 2022: [5]

- A detailed regulatory audit, in order to ensure that E.L.K. Energy has proper accounting procedures and practices.
- A detailed operational review, together with an explanation on how the findings and recommendations will inform E.L.K. Energy's business plan going forward.
- An asset condition assessment, in order provide input into an asset registry and to be used in E.L.K. Energy's Distribution System Plan.

OEB staff notes that the audit should be completed during 2020 calendar year which would be the last historical year leading up to E.L.K. Energy's cost of service application for the 2022 test year.

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[2] EB-2016-0066, Settlement Proposal, November 2, 2017
[3] Decision and Order, EB-2016-0066, November 2, 2017
[4] Ibid.
[5] Ibid.

OEB staff has reviewed the evidence that E.L.K. Energy submitted in this application and takes no issue on the disposition of its Group 1 accounts.

Retail Transmission Service Rates (RTSR)

E.L.K. Energy requests an update to its RTSRs to recover the wholesale transmission rates charged by its host distributor, Hydro One Networks Inc.

OEB staff notes that E.L.K. Energy's RTSRs are increasing in the range of 7-13% from the levels approved in the 2019 rate-setting process, depending on the rate class. Furthermore, OEB staff notes that the Hydro One Sub-Transmission Rates have increased between 4%-15% and are not in E.LK. Energy's control. OEB staff takes no issue with the proposed increases.

Shared Tax Adjustment

In any adjustment year of a Price Cap IR term, a change in legislation may result in a change to the amount of taxes payable by a distributor. For IRM applications, the OEB has long held that a 50/50 sharing of the impact of legislated tax changes between shareholders and ratepayers is appropriate in these situations. The shared tax change amount, whether in the form of a credit or a debit, will be assigned to customer rate classes in the same proportions as the OEB-approved distribution revenue by rate class from a distributor's last cost of service proceeding.

E.L.K. Energy has identified a total tax change of $23,319, resulting in a shared amount of $11,659 to be collected from rate payers. Since the allocated tax sharing amount does not produce a rate rider in one or more rate classes, E.L.K. Energy has requested that the shared amount be transferred to Account 1595 for disposition at a later date.

OEB staff submits that E.L.K. Energy's request is aligned with the OEB's Chapter 3 Filing requirements[6], and takes no issue with E.L.K. Energy's request.

[6] Filing Requirements for Electricity Distribution Rate Applications – 2018 Edition, Chapter 3, Section 3.2.7

Return on Equity (ROE)

E.L.K. Energy filed its last cost of service application for 2017 rates, on November 4, 2016. As part of the settlement agreement accepted by the OEB in that proceeding, E.L.K. Energy agreed to withdraw its application and instead use an Annual IR Index methodology to set base rates. E.L.K. Energy also agreed to undertake a regulatory audit, an operational review, and an asset condition assessment prior to its next cost of service application.[7] The settlement agreement indicates that intervenors were concerned that E.L.K. Energy was consistently over-earning, while issues that arose during that proceeding regarding questions about planning, data quality, and asset management revealed that there may be some long-term issues that need to be addressed before E.L.K. Energy should be provided additional funding.[8]

On September 29, 2019, the OEB published E.L.K. Energy's Scorecard. For the 2018 year, the scorecard indicates a deemed ROE of 8.78% and an achieved ROE of 16.17%. The achieved ROE represents 739 basis points above the target ROE that was the basis upon which rates were established.[9] Furthermore, in E.L.K. Energy's RRR Filing[10], E.L.K. Energy submitted that it had achieved an ROE of $743,531 for the 2018 year. This is $321,967 greater than E.L.K. Energy's deemed ROE as approved in its most recent cost of service proceeding.

As per the Report of the Board "Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach" issued on October 18, 2012, if a distributor's annual ROE is 300 basis points above or below its deemed ROE, a regulatory review may be initiated.

OEB staff notes that in its current application, E.L.K. Energy did not raise the issue of over-earning in the 2018 fiscal year.

In response to OEB staff interrogatory[11], E.L.K. Energy completed a table created by OEB staff to outline the drivers associated with the over-earning in 2018. That table is reproduced below:

[7] EB-2016-0066
[8] EB-2016-0066, Settlement Proposal, November 2, 2017
[9] EB-2011-0099, Decision and Rate Order, May 2, 2013 (2013 rate year)
[10] Form 2.1.5.6
[11] Staff Questions #1 (d)

Table 1

Driver	Ongoing/ One Time Costs	2017 OEB Approved	2017 Actual	2018 Actual	2019 Actual	2020 Actual
Legal Costs	Ongoing	$100,000	$111,949	$7,189	E.L.K. does not have the 2019 or 2020 data available as E.L.K.'s audit has not yet occurred	E.L.K. does not have the 2019 or 2020 data available as E.L.K.'s audit has not yet occurred
Regulatory Costs	Ongoing	$154,000	$175,655	$92,111		
Operational Review	One Time	$60,000	$0	$0		
Asset Management Assessment	One Time	$100,000	$0	$0		

OEB staff notes that E.L.K. Energy has been on Annual IR since its 2017 rate year and that there have been no specific OM&A approvals since E.L.K. Energy last rebased in 2012 for its 2013 rate year. In regards to the Table 1, 2017 OEB Approved column, OEB staff assumes that E.L.K. Energy intended to indicate that these amounts are currently embedded in base distribution rates at the time of its last rebasing. E.L.K. Energy noted that its operational review and asset management assessment are not completed on annually and that data for 2019 fiscal year is unavailable due to an outstanding audit.

As noted above, there was no rebasing for 2017 rates and OEB staff does not understand E.L.K. Energy's explanations nor the significance of the one time costs identified in the 2017 column in terms of explaining the over earnings for the 2018 year.

In response to a request from OEB staff to explain the reasonableness of applying for an increase to its base rates, E.L.K. Energy stated that it believes this to be a one-time scenario and will not persist. E.L.K. Energy noted that it is scheduled to rebase in 2022 which will adjust any variances from the minimal inflationary increase being requested.

OEB staff notes that E.L.K. Energy did not provide an estimate for the 2019 and 2020 years. OEB staff acknowledges that the 2019 and 2020 columns provided in the interrogatory were mislabelled and should have read as 2019 and 2020 "forecasts".

In its reply submission, E.L.K. Energy should consider providing a better explanation for the 2018 over earnings, and to explain why it believes the over earnings will not (or did not) persist into 2019. In turn, this will provide further support to E.L.K. Energy's estimated ROE of 9% for 2019 and 2020, as noted in its response to VECC interrogatory #2.

As per section 3.3.5 of the *Filing Requirements for Electricity Distribution Applications*[12], the OEB states that:

> A distributor whose earnings are in excess of the dead band is expected to refrain from seeking an adjustment to its base rates through a Price Cap IR or Annual IR Index plan. If a distributor whose earnings are in excess of the dead band nevertheless applies for an increase to its base rates, the OEB expects it to substantiate its reasons for doing so.

In the absence of any further justification from E.L.K. Energy, OEB staff submits that E.L.K. Energy has not substantiated why it should receive the inflationary increase of 1.4% given the OEB's policy regarding over-earning during an IRM period.

All of which is respectfully submitted.

[12] Issued on July 12, 2018