February 27, 2020

Kirsten Walli
Board Secretary
Ontario Energy Board
PO Box 2319
2300 Yonge Street, Suite 2700
Toronto ON M4P 1E4

Dear Ms. Walli:

**Re: E.L.K. Energy Inc.**
**Distribution License ED- ED-2003-0015**
**2020 Incentive Regulation Mechanism ("IRM") Distribution Rate Application EB-2019-0029**

**E.L.K. Final Response Submission**

In accordance Procedural Order #1, provided below is E.L.K.'s written reply submission due February 27, 2020.

Regards

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E.L.K. Energy Inc. (E.L.K.) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on November 4, 2019 under section 78 of the *Ontario Energy Board Act*, 1998 seeking approval for changes to the rates that E.L.K. charges for electricity distribution, effective May 1, 2020.

E.L.K. remains one of the leanest and lowest cost LDC's by rates in the province. E.L.K. has been rated as a Group 1 utility according to the OEB's own efficiency benchmarking every year for the past five years. E.L.K.'s actual costs are more than 25% below predicted costs, according to the OEB's own benchmarking model.

By establishing rates using the Annual IR index method, E.L.K. is seeking a rate increase for 2020 that is 0.5% lower that what it otherwise would have been in light of E.L.K.'s benchmarking performance under a standard 4$^{th}$ Generation IRM approach.

That is to say, if the OEB approves the requested rate increase, E.L.K.'s rates will be increasing at less than the rate of inflation, even for a utility whose actual costs are already more than 25% below predicted costs.

E.L.K. prides itself on being a low-cost provider to our customers while still delivering reliable service. E.L.K. recently completed a 3$^{rd}$ party led customer satisfaction survey and 91% of customers responded that they were overall satisfied with E.L.K. and what it offers.

However, as small and a low-cost utility, E.L.K. operates its business with very narrow budgetary margins.

Delays in recognizing certain expenditures between calendar years that would not even be noticeable in the financials of a medium or large LDC can and do appear as major deviations in E.L.K.'s reported financial statements.

This is exactly what happened in 2018.

Pursuant to the OEB approved Settlement Proposal (EB-2016-0066), E.L.K. is obligated to (a) complete an operational review; (b) complete an asset condition assessment; and (c) complete a new cost of service application for rates in 2022.

Each of these three obligations constitutes material expenditures for E.L.K.

E.L.K. budgeted for this to begin in 2018, so that the reviews would be completed and management would have time to address the conclusions in time to file for 2022. This is more fully detailed in the interrogatory response to Staff-1.

Specifically, E.L.K. budgeted to spend $160,000 on an operational review and a new asset condition assessment in 2018.

It is important to note that this work is underway; however the third party service providers had not billed E.L.K. for this work effective December 31, 2018.

Both the operational review and the asset condition assessment are anticipated to be one-time expenditures. However, in 2018, E.L.K. scaled back other expenditures so as to accommodate these (for E.L.K.) exceptional cost items. This temporary scale back of other expenditures cannot be continued over the longer term without risking the financial viability and long-term reliability and safety of the distribution system. There is not room to scale back even further.

In addition, E.L.K. budgeted to spend a further $160,000 on legal and regulatory costs to support the development of the 2022 cost of service application. However, because of the delay in work on the operational review and the new asset condition assessment, the work on this component of the rate application development was also unexpectedly delayed into 2019/2020.

Both legal and regulatory costs are ongoing costs. Work not completed in 2018 will carry forward into 2019/2020, and will lead to higher costs in those future years.

It is important to note that pursuant to the OEB approved Settlement Proposal (EB-2016-0066), completing the operational review, the asset condition assessment, and the new cost of service application is non-discretionary for E.L.K. These expenditures will and must occur. The work has already begun.

In this context, the OEB provides at Section 3.3.5 of the Filing Requirements for Electricity Distribution Applications that:

> *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*.

E.L.K.'s reported regulatory ROE in 2018 is due entirely to a unique one-time occurrence. Overearning is not expected to occur again in either 2019 or 2020.

If the OEB does not approve the modest funding increase requested in this Annual IR application, E.L.K. will not have sufficient funds available to pay for inflationary cost increases, complete the operational review, complete the asset condition assessment and prepare the forthcoming cost of service application, while continuing to maintain the adequacy, safety, and reliability of its distribution system.

## Trend Analysis of ROE

Within VECC's final submission letter it also stated that E.L.K. has a history of underspending and overearning. This is misleading.

The claim regarding 2009 and 2010 is over 10 years ago. VECC ignores many years in between.

With respect to 2014, this was thoroughly explained in previous proceedings as a direct result of an accounting methodology change (changes in capitalization policies) and not truly reflective of any meaningful level of overearnings.

E.L.K. has not been overearning year-after-year. The average ROE over the past 6 years per the OEB Scorecard, with 2014 ROE adjusted for the change in capitalization policies and agreed upon by the OEB and E.L.K. at all times is within the +-300 dead band.

Additional legal and intervenor costs represent a significant cost to customers, and E.L.K. believes that this application is an example of this. This requested increase is the least amount a utility can request. OEB has, consistently preached and has practiced a rate smoothing methodology in all aspects of rate making.

E.L.K. is currently in the process of hiring two new full-time staff with resumes received and being reviewed as well as budgeting for another full time front office staff member.

E.L.K. will continue its unwavering support for its customers in order to be able to provide the safest and most reliable source of electricity at a reasonable rate to our customers. Being in the trenches everyday and speaking with our customers gives E.L.K. the motivation to continue improving and continuing to be lean, effective and knowing we are trying to accomplish what they want us to do.