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September 30, 2021

**Delivered by Email & RESS**

Ms. Christine Long, Registrar and Board Secretary  
Ontario Energy Board  
P.O. Box 2319, 27th Floor  
2300 Yonge Street  
Toronto, ON M4P 1E4

Dear Ms. Long:

**Re: Elexicon Energy Inc. 2022 IRM Application (“Application”)  
Objection to Request for Intervention and Costs  
EB-2021-0015**

We are counsel to Elexicon Energy Inc. (“**Elexicon**”) in respect of the above noted matter.

We are writing to object to the intervention request and request for costs filed by counsel to Low Income Energy Network (“**LIEN**”) on September 23, 2021 (“**Intervention Request**”).

LIEN did not serve the Intervention Request directly to Elexicon or to Elexicon’s counsel and as a consequence Elexicon did not become aware of the Intervention Request until September 27, 2021. Elexicon has endeavoured to file this objection promptly in the circumstances (two days later).

Pursuant to Rule 22.02 of the Rules of Practice and Procedure, the person applying for intervenor status must satisfy the OEB that they have a substantial interest in the proceeding.

LIEN describes its scope of intervention in the Intervention Request as:

*“Elexicon’s Distribution System Plan (“DSP”) is part of Elexicon’s application and concerns Conservation and Demand Management (“CDM”) programming. Distributor CDM programs and frameworks are critical to low-income consumers in so far as they may impact low-income consumers through the distributors’ rates.”<sup>1</sup>*

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<sup>1</sup>EB-2021-0015, Low Income Energy Network, Intervention and Cost Eligibility Request dated September 23, 2021, at page 1.

It is unclear how these issues are within scope of this simple, mechanistic IRM application nor is it clear how these issues are relevant to Elexicon's request for incremental capital module ("ICM") funding for the Seaton Transformer Station and the Bus Rapid Transit Highway 2 project. Elexicon is not seeking approval of its Distribution System Plan, nor is it seeking approval of any particular form of CDM programming as part of this Application.

Moreover, pursuant to Decision and Order in EB-2019-0167 dated August 22, 2019, the OEB had amended all electricity distributor licences to remove the conditions in respect of CDM targets.

If LIEN would like to engage in public policy advocacy so as to advance distributor CDM initiatives, the proper forum to do so would be in a generic proceeding, such as EB-2021-0166 – *Updating the Conservation and Demand Management Guidelines for Electricity Distributors*. It would not be as part of this simple, and mechanistic ICM/IRM application.

In its Intervention Request, LIEN indicated that it had been accepted as a party that is eligible for an award of costs in many other proceedings before the OEB.<sup>2</sup> However, whether or not the intervenor has a substantial interest is based on the facts of each application and assessment needs to be undertaken for each application.<sup>3</sup>

It is noteworthy also that the interests of low income consumers are already represented by Vulnerable Energy Consumers Coalition ("VECC"), which has sought intervenor status by way of Notice of Intervention dated September 10, 2021. VECC describes its mandate of intervening in proceedings as advocating on behalf of the interests of Ontario's vulnerable consumers with respect to energy issues. It states that it is intervening in this proceeding in order to ensure that the interests of electricity consumers, particularly low-income consumers, are fully represented in the determination of just and reasonable rates.<sup>4</sup> Elexicon has no objections to VECC's notice of intervention.

We conclude by noting that in the *2021 Chief Commissioner Plan Initiatives*<sup>5</sup> and *Business Plan 2021-2024*<sup>6</sup>, the OEB is seeking ways to enhance the efficiency of the regulatory process, which includes reviewing intervenor processes to identify opportunities for operational efficiencies. In this regard, the OEB is considering strategies for reducing overlapping or duplicative interventions.<sup>7</sup>

Avoiding the duplicative participation of LIEN and avoiding the scope expansion proposed in LIEN's notice of intervention aligns with the OEB's initiatives and plans on achieving regulatory efficiency.

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<sup>2</sup> *Ibid.*

<sup>3</sup> EB-2019-0049 Procedural Order No. 1 dated June 20, 2019 at page 3.

<sup>4</sup> EB-2021-0015, Vulnerable Energy Consumers Coalition, Notice of Intervention dated September 10, 2021 at page 2 and 4.

<sup>5</sup> *2021 Chief Commissioner Plan Initiatives* dated April 1, 2021, Available Online: <https://www.oeb.ca/sites/default/files/Chief-Commissioner-Plan-Initiatives-20210507-en.pdf> (Last Accessed: September 28, 2021) [**"Chief Commissioner Plan Initiatives"**]

<sup>6</sup> Ontario Energy Board's Business Plan 2021-2024, Available Online: <https://www.oeb.ca/sites/default/files/OEB-2021-2024-business-plan.pdf> (Last Accessed: September 28, 2021).

<sup>7</sup> Chief Commissioner Plan Initiatives, at page 6.

Based on the information currently available, Elexicon submits that LIEN has not met the substantial interest test in Rule 22.07 of the Practice Rules and does not meet the Board's cost eligibility requirement as specified in the Notice.<sup>8</sup>

Yours very truly,

**BORDEN LADNER GERVAIS LLP**

Per:



Flora Ho

cc: Steve Zebrowski, Elexicon Energy Inc.  
Judy Simon, Judy Simon & Associates Inc.  
Matt Gardner, Willms & Shier Environmental Lawyers LLP  
Madiha Vallani, Willms & Shier Environmental Lawyers LLP

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<sup>8</sup> EB-2021-0015 - Ontario Energy Board Notice to Customers of Elexicon Energy Inc. dated September 1, 2021.