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

BY EMAIL

November 19, 2021

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

Dear Ms. Long:

**Re: Ontario Energy Board (OEB) Staff Submission**
**Elexicon Energy Inc.**
**Application for 2022 Rates**
**OEB File Number: EB-2021-0015**

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

*Birgit M. Armstrong*

Birgit Armstrong
Incentive Rate-setting & Regulatory Accounting

Encl.

cc: All parties in EB-2021-0015

Ontario

# ONTARIO ENERGY BOARD

## OEB STAFF SUBMISSION

**Elexicon Energy Inc.**

**2022 Rates Application**

**EB-2021-0015**

**November 19, 2021**

# Application Summary

On December 20, 2018, the Ontario Energy Board (OEB) approved an application to amalgamate Veridian Connections Inc. and Whitby Hydro Electric Corporation into Elexicon Energy Inc. (Elexicon), which included a proposal to defer rebasing for ten years.[1]

Elexicon filed an incentive rate-setting mechanism (IRM) application seeking approval for changes to its electricity distribution rates to be effective January 1, 2022.[2] Elexicon's application for the Veridian rate zone (RZ) is based on a Price Cap Incentive Rate-setting (Price Cap IR) option. Elexicon's application for the Whitby RZ is based on an Annual Incentive Rate-setting (Annual IR) option.

The purpose of this document is to provide the OEB with the submissions of OEB staff based on its review of the evidence submitted by Elexicon on the following:

1. Annual Adjustment Mechanism
2. Retail Service Transmission Rates (RTSRs)
3. Tax Sharing Mechanism
4. Group 1 Deferral and Variance Accounts (DVA)
5. Lost Revenue Adjustment Mechanism Variance Account (LRAMVA)
6. Earning Sharing Mechanism (ESM)
7. Incremental Capital Module (ICM)
    - Seaton Transformer Station
    - Bus Rapid Transit Highway

# OEB Staff Submission

## 1. Annual Adjustment Mechanism

On August 6, 2021, the OEB issued a notice, on its own motion, to initiate a proceeding to consider the inflation factor to be used to set rates for electricity transmitters and electricity and natural gas distributors for the year 2022.[3] The OEB's decision on the 2022 inflation parameters was issued on November 18, 2021, approving an inflation

[1] EB-2018-0236, Decision and Order, December 20, 2018.
[2] Filed on August 18, 2021, under section 78 of the *Ontario Energy Board Act*, *1998* (OEB Act)
[3] EB-2021-0212

factor of 3.3% for electricity distributors. OEB staff has updated Elexicon's 2022 Rate Generator Models for each rate zone to reflect the OEB-approved 2022 inflation factor, and resulting Price Cap IR and Annual IR adjustments, and has attached the updated models to this submission.

Submission

OEB staff supports Elexicon's request for a price cap adjustment for 2022 rates based on the Price Cap IR methodology in the case of the Veridian RZ and the Annual IR Index methodology in the case of the Whitby RZ. OEB staff submits that Elexicon should confirm the accuracy of the annual adjustment of the updated rate generators in its reply submission.

## 2. Retail Service Transmission Rates

Elexicon is a partially embedded distributor within Hydro One Network Inc.'s (Hydro One) distribution system in each rate zone. Elexicon has requested an update to its Retail Transmission Service Rates (RTSRs) for each rate zone, to recover the wholesale transmission rates charged by the Independent Electricity System Operator (IESO) and by its host distributor, Hydro One. Elexicon's RTSRs, as filed, have been adjusted to reflect the current OEB-approved 2021 Uniform Transmission Rates (UTRs) and host distributor's 2021 RTSRs. At the time of this submission, the 2022 Uniform Transmission Rates and the host distributor's 2022 RTSRs have not yet been approved.

Submission

OEB staff submits that it will make the appropriate updates to Elexicon's 2022 RTSRs in each rate zone if the OEB approves 2022 Uniform Transmission Rates or Elexicon's host distributor's RTSRs, effective January 1, 2022, following the close of record (and before the OEB issues a decision) in this proceeding. If the OEB does not approve 2022 UTRs and/or host distributor's RTSRs prior to the issuance of a decision and order in this proceeding, Accounts 1584 – Retail Transmission Network Charge and 1586 – Retail Transmission Connection Charge will capture these differences.

## 3. Tax Sharing Mechanism

For the Veridian RZ, Elexicon has calculated a credit amount of $2,849 associated with the OEB's shared tax savings mechanism, which allows for a 50/50 sharing of the impact of changes in tax legislation. Elexicon is proposing to transfer this amount to Account 1595 for disposition in a future period, in accordance with the OEB's policy, as the amount is too small to generate a rate rider in each rate class. The tax sharing amount for the Whitby RZ is a credit amount of $50,172. Elexicon proposes to refund this credit amount to customers in the Whitby RZ through a rate rider over a one-year period.

Submission

OEB staff supports Elexicon's approach and calculations for each rate zone.

## 4. Group 1 Deferral and Variance Accounts

Background – Veridian RZ

For the Veridian RZ, Elexicon is requesting to dispose of a net debit balance of $8,831,769 for its Group 1 balances as of December 31, 2020, on an interim basis, over a one-year period. This includes interest projected to December 31, 2021 as shown in the table below.

**Table 1: Group 1 DVAs Requested for Disposition – Veridian RZ**

| Account Name | Account Number | Principal Balance ($) A | Interest Balance ($) B | Total Claim ($) C=A+B |
|---|---|---|---|---|
| LV Variance Account | 1550 | 4,717,114 | 101,696 | 4,818,810 |
| Smart Metering Entity Charge Variance Account | 1551 | (201,092) | (7,358) | (208,450) |
| RSVA - Wholesale Market Service Charge | 1580 | (2,214,974) | (53,005) | (2,267,978) |
| Variance WMS – Sub-account CBR Class B | 1580 | (406,255) | (13,768) | (420,024) |
| RSVA - Retail Transmission Network Charge | 1584 | 3,111,959 | 37,464 | 3,149,423 |
| RSVA - Retail Transmission Connection Charge | 1586 | 2,969,781 | 54,529 | 3,024,310 |
| RSVA - Power | 1588 | 190,298 | (30,092) | 160,207 |
| RSVA - Global Adjustment | 1589 | 773,406 | 31,809 | 805,215 |
| Disposition and Recovery of Regulatory Balances (2017) | 1595 | (174,626) | (216,236) | (390,862) |
| Disposition and Recovery of Regulatory Balances (2018) | 1595 | 155,509 | 5,610 | 161,119 |
| **Totals for Group 1 DVAs** | | **8,921,120** | **(89,351)** | **8,831,769** |

Elexicon's Group 1 DVAs for the Veridian RZ equate to a debit of $0.0034 per kWh, which exceeds the OEB's disposition threshold of $0.001 per kWh.[4]

The OEB most recently approved disposition of Elexicon's Group 1 account balances for the Veridian RZ on a final basis, as of December 31, 2017, as part of its 2020 rates proceeding.

Elexicon's 2018 and 2019 DVA balances for the Veridian RZ were not disposed in previous proceedings, as the threshold test was not met and Elexicon did not request disposition.

In each of Elexicon's 2020 and 2021 rates proceedings for the Veridian RZ, Elexicon addressed its implementation of the OEB's *Accounting Guidance Related to Commodity Pass-Through Accounts 1588 & 1589* (Accounting Guidance)[5] and its review of historical account balances.[6]

In the current proceeding, Elexicon is requesting interim disposition of its Group 1 DVAs for the Veridian RZ, as it is currently undertaking a review of the settlements and accounting for Accounts 1588 and 1589.[7] Although Elexicon indicated in its pre-filed evidence that the Veridian RZ is aligned with the Accounting Guidance,[8] Elexicon has identified an issue related to the levels of unaccounted for energy used for Veridian RZ settlements in 2020. Elexicon revised its 2020 principal adjustments (and resulting claims) for Account 1588 and Account 1589 accordingly.[9] Elexicon noted that it does not believe that there are material systemic issues that have not already been identified, however, it intends to complete a final review prior to requesting final disposition for these amounts (anticipated in its application for 2023 rates).

<u>Submission – Veridian RZ</u>

OEB staff has reviewed the 2018, 2019, and 2020 DVA balances for the Veridian RZ and the supporting evidence substantiating these balances. Subject to Elexicon's further review noted above, the balances appear reasonable, and accordingly, OEB staff supports Elexicon's request to dispose of its December 31, 2020 Group 1 DVA

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[4] EB-2008-0046, Report of the Board on Electricity Distributors' Deferral and Variance Account Review Initiative, July 31, 2009, p.10
[5] Accounting Procedures Handbook Update – Accounting Guidance Related to Commodity Pass-Through Accounts 1588 & 1589, February 21, 2019
[6] EB-2019-0252, Elexicon Energy Inc. - Veridian RZ, 2020 IRM Decision and Rate Order, April 16, 2020, page 7 & 8; EB-2020-0013, November 5, 2020, OEB Staff-6
[7] OEB Staff-17
[8] Manager's Summary, page 21, August 18, 2021
[9] OEB Staff-18; OEB Staff-25

balances on an interim basis. There is, however, one minor item that OEB staff suggests Elexicon clarify as part of its reply submission. Elexicon noted that the unaccounted for energy matter, and its impact on the Veridian RZ settlements and accounting, is not expected to materially impact the 2019 principal adjustment amounts for Account 1588 and Account 1589. Given that the 2018 year has not been disposed of on a final basis, OEB staff submits that Elexicon should confirm that the 2018 principal adjustments are similarly expected to be unaffected by this matter in any material way.

Background – Whitby RZ

The OEB most recently approved disposition of Elexicon's Group 1 account balances for the Whitby RZ on a final basis, as of December 31, 2019, as part of its 2021 rates proceeding. Elexicon is not requesting disposition of its December 31, 2020 Group 1 DVAs for the Whitby RZ in this proceeding, as the threshold test has not been met.

However, Elexicon is requesting an extension for the Whitby RZ with respect to the implementation of the OEB's Accounting Guidance.[10] This extension request was updated in its interrogatory responses, from the end of 2021 (as originally filed) to June 2022.[11]

Elexicon stated that the extension will support additional process changes delayed by the COVID-19 emergency and unexpected upgrades related to the recently merged Customer Information System (CIS). Elexicon confirmed that if the OEB grants Elexicon's request, this would not have a material impact on the Whitby RZ's Group 1 DVA balances (2020 and forward).[12] Elexicon also confirmed that it does not expect any further adjustments to any of the DVAs for the Whitby RZ upon implementation of the new integrated CIS system.

Submission – Whitby RZ

OEB staff has reviewed Elexicon's 2020 Group 1 balances for the Whitby RZ. The balances appear reasonable and appropriately calculated to be under the OEB's disposition threshold.

OEB staff does not object to the OEB granting an extension to June 2022 with respect to the implementation of the Accounting Guidance.

[10] Manager's Summary, page 8, August 18, 2021
[11] Manager's Summary, page 27, August 18, 2021; IRR OEB Staff-20
[12] IRR OEB Staff-19

## 5. Lost Revenue Adjustment Mechanism Variance Account

Background

Elexicon applied for partial disposition of Account 1568 – LRAMVA to recover lost revenues in the amount of $1,032,151 (including carrying charges), associated with differences between actual savings and forecast conservation savings included in the last OEB-approved load forecast.

The claim for the Veridian RZ, which includes results from 2019 CDM programs and the persistence of 2012-2018 programs in 2019, is $716,742. This includes carrying charges on the principal LRAMVA balance projected to December 31, 2021 of $20,537. The claim for the Whitby RZ, which includes results from 2019 CDM programs and the persistence of 2011-2018 programs in 2019, is $315,409. This includes carrying charges on the principal LRAMVA balance projected to December 31, 2021 of $9,037.

Elexicon has already submitted claims for lost revenues from CDM programs and persistence through 2018 for both the Veridian RZ and the Whitby RZ in its 2021 IRM Application.[13]

Elexicon retained IndEco Strategic Consulting Inc. to develop its 2019 LRAMVA claim for each rate zone.

Elexicon proposes to recover the LRAMVA amount through class-specific volumetric rate riders that would be in effect for a period of twelve months, from January 1, 2022 to December 31, 2022. The class-specific rate riders were determined by totaling the class-specific LRAMVA amount by program and dividing by the amount of volume or demand billed in 2020.

Submission

OEB staff submits that Elexicon's LRAMVA balance has been calculated in accordance with the OEB's CDM Guidelines[14] and updated LRAMVA policy.[15] Actual conservation

[13] EB-2020-0013 and EB-2020-0012
[14] Conservation and Demand Management Requirement Guidelines for Electricity Distributors, revised August 16, 2016, EB-2014-0278, section 7
[15] Filing Requirements for Electricity Distribution Rate Applications - 2021 Edition for 2022 Rate Applications - Chapter 3 Incentive Rate-Setting Applications, June 24, 2021, section 3.2.6

savings are consistent with the savings in the IESO reports and additional supporting documentation.

In the former Veridian Connection Inc.'s last cost of service rate proceeding,[16] the approved load forecast was established for a 2014 single forward test year, which included the impacts of CDM in 2012 and prior years.

There was no CDM adjustment in the approved load forecast in the former Whitby Hydro Electric Corporation's last cost of service application.[17] Elexicon indicated that the full amount of the LRAMVA associated with the 2011-2019 IESO CDM program impacts on 2019 has been included in the disposition request for the Whitby RZ.

OEB staff supports the LRAMVA balance requested for disposition, as shown in Table 2:

**Table 2: LRAMVA Balances for Disposition**

| Account Name | Account Number | Actual CDM Savings ($) A | Forecasted CDM Savings ($) B | Carrying Charges ($) C | Total Claim ($) D=(A-B)+C |
|---|---|---|---|---|---|
| **Veridian RZ LRAMVA** | 1568 | 905,273 | 209,067 | 20,536 | 716,742 |
| **Whitby RZ LRAMVA** | 1568 | 306,372 | 0 | 9,037 | 315,409 |
| **Total** | 1568 | 1,211,645 | 209,067 | 29,573 | 1,032,151 |

## 6. Earning Sharing Mechanism

Background

In the OEB's December 20, 2018 MAADs Decision, the OEB ordered that Elexicon file an Earning Sharing Mechanism (ESM) proposal by December 31, 2021, in accordance with prevailing OEB policy at that time. As part of this application, Elexicon submitted its ESM proposal, adhering to that order. In response to interrogatories, Elexicon amended

[16] EB-2013-0174
[17] EB-2009-0274

its original application by adding the request for an OEB order to approve Elexicon's ESM proposal for the 2024-2028 rate period.

Elexicon noted that its proposal is consistent with current OEB policy, which states the following:[18]

> *Consolidating entities that propose to defer rebasing beyond five years, must implement an ESM for the period beyond five years. The ESM is designed to protect customers and ensure that they share in any increased benefits from consolidation during the deferred rebasing period.*
>
> *In the 2015 Report, the OEB determined that under the ESM, excess earnings are shared with consumers on a 50:50 basis for all earnings that are more than 300 basis points above the consolidated entity's annual ROE. Earnings will be assessed each year once audited financial results are available and excess earnings beyond 300 basis points will be shared with customers annually. No evidence is required in support of an ESM that follows the form set out in the 2015 Report.*

Elexicon noted that it has yet to rebase as a merged entity and therefore does not have an approved Return-On-Equity (ROE) against which the earning sharing amount could be determined. Elexicon proposed to use the approved legacy ROEs of each predecessor utility, weighted by the rate base approved by the OEB in each rate zone's most recent rebasing application, to develop a weighted average ROE for Elexicon as shown in the table below.

| | Veridian RZ | Whitby RZ | Elexicon |
|---|---|---|---|
| OEB-Approved Rate Base ($000's) | $ 238,106 | $ 75,768 | $ 313,874 |
| Weighting | 75.86% | 24.14% | 100% |
| OEB-Approved ROE | 9.36% | 9.66% | 9.43% |

Elexicon further explained that it would calculate its earnings in the same manner as in the OEB's Reporting and Record Keeping Requirements (RRR) 2.1.5.6 filings, and

[18] OEB Handbook to Electricity Distributor and Transmitter Consolidations, issued January 19, 2016, p. 16

similarly, revenues and expenses not typically included for regulatory purposes would be excluded.

Elexicon noted that this approach aligns with other, recently approved ESMs for distributors that have consolidated, namely Alectra Utilities.[19]

Submission

OEB staff has reviewed the ESM proposal as filed. OEB staff does not believe that Elexicon's proposal deviates in substance from the OEB's MAADs policy, or from the ESM framework approved for other consolidated distributors.

However, OEB staff notes that Elexicon's request for approval was not part of its original application. As such, OEB staff did not test the details of the evidence based on the initial request. For example, OEB staff may have inquired about whether the allocation factor (most-recently approved rate base) is the most appropriate way to derive a consolidated approved ROE (particularly given that the former utilities have significant timing differences with respect to when they last rebased).

In addition, in the Alectra Utilities proposal that Elexicon refers to, the OEB approved the overall ESM framework, however, it also made the following findings:

> The methodology in calculating an approved ROE for a newly consolidated entity, or any allocations that would be required between rate zones in determining deemed and achieved returns, are factors that are not discussed in either the MAADs Policy, MAADs Handbook, or in the approval of the Alectra Utilities amalgamation.
>
> The OEB will defer these matters for consideration in Alectra Utilities' first rate application following the completion of its 2022 fiscal year (the first year that the ESM is in effect for). The OEB expects Alectra Utilities to address these issues in its pre-filed evidence related to the ESM at that time.[20]

Elexicon cited the same reference above in response to another interrogatory and stated that, "[c]onsistent with the Alectra Decision, Elexicon believes that this issue is best dealt with in the first rate application following the completion of its 2024 fiscal year (the first year for which the ESM would be in effect)."[21]

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[19] EB-2019-0018, Alectra Utilities 2020 rates proceeding, Partial Decision and Interim Rate Order, page 43, December 12, 2019.
[20] Ibid.
[21] IRR SEC-11

OEB staff submits that Elexicon has complied with the OEB's order as per the MAADs Decision. However, it is unclear to OEB staff what aspects of the ESM proposal Elexicon is seeking to have approved in this proceeding, and which ones it believes should be deferred (i.e. whether deemed ROE is the only element that should be deferred to the 2026 rates proceeding, or whether there are any other allocations or adjustments that should be subject to determination at that time).

If Elexicon is seeking OEB approval of the general framework for the ESM it has proposed in this proceeding, while deferring the details surrounding the calculation of any ESM amounts, OEB staff would be supportive of such an approach, given that there are no rate implications until the 2026 rates proceeding. Specifically, OEB staff submits that the following aspects of Elexicon's ESM proposal should be approved (if that is, in fact, what Elexicon is seeking as part of this application):

- The ESM is in effect for years six through ten of the deferred rebasing period.
- Achieved earnings in any given year that exceed 300 basis points above the OEB-approved ROE will be shared on a 50:50 basis with ratepayers.
- Earnings in each year in which the ESM is in effect would be reported, after audited results are available, and as part of the subsequent rates application (for example, 2024 earnings will be filed in 2025 as part of the 2026 rates proceeding). The amounts to be shared with ratepayers would be credited to a newly established variance account.
- Any over-earnings to be shared would be distributed to ratepayers via a one-year rate rider.
- Regulatory net income will be calculated in the same manner as regulatory net income for the purposes of the RRR filings, and in accordance with the RRR 2.1.5.6, as it currently exists. Revenues and expenses not otherwise included for regulatory purposes shall be excluded from the calculation.

OEB staff agrees with Elexicon that underlying details, such as how deemed ROE should be calculated on a consolidated basis, should be deferred to the first rate application for when the ESM would be in effect.

## 7. 2022 Incremental Capital Module

Background

Elexicon requested ICM funding for two projects in the Veridian RZ:

- $40,762,000 – Seaton Transformer Station (TS)
- $3,379,000 – Bus Rapid Transit (BRT) Highway 2

The first project relates to the construction of Seaton TS, a new 230kV to 27.6kV TS that will serve and be located in the Pickering-Ajax-Whitby sub-region. The application noted that there is significant growth, specifically within the Seaton development area. The forecasted growth in load is expected to exceed the capacity at the existing 27.6kV Whitby TS that is currently serving the region by 2023. Furthermore, Elexicon noted that other areas of Pickering are also expected to experience growth and that the new Seaton TS will also help provide capacity and alleviate the need for expansion of other sections of its existing distribution network. The new Seaton TS will be owned and operated by Elexicon.

The second project is a road relocation project initiated by transportation authorities (Metrolinx, Region of Durham, and Durham Region Transit). The scope of this project is along a stretch of Highway 2, where Elexicon is required to relocate its existing overhead and underground infrastructure to accommodate the expansion of the BRT network. Along this stretch of Highway 2 is a mixture of overhead and underground assets and Elexicon is proposing a like-for-like relocation. The gross cost of the project is $5,299,000, with an expected capital contribution of $1,920,000, resulting in a net cost of $3,379,000.

Based on OEB staff's analysis in the sections below, OEB staff submits that both projects meet the ICM criteria of materiality, need and prudence and should be approved. Elexicon is not scheduled to rebase in the following rate year. Therefore, OEB staff submits that the half-year rule does not apply.

With respect to the ICM model, OEB staff has reviewed the latest version of the model filed by Elexicon as part of its interrogatory responses and notes a discrepancy in the cost of the Seaton TS project. Elexicon noted that it had revised the "Transformer" line item of Seaton TS in the ICM model.[22] The cost of this line item was decreased from $23,388,885 to $19,313,000 to remove certain items and record them separately in other accounts to more accurately reflect their depreciation. Elexicon then provided a

[22] Response to OEB Staff-9

list of five other accounts that contained the amounts that were removed from the "Transformer" line item.

OEB staff totals the other five items to be $3,950,000. By OEB staff's calculations, a deduction of $3,950,000 from $23,388,885 should result in $19,438,885, which does not match the amount Elexicon provided. Furthermore, neither OEB staff's calculation nor the amount presented by Elexicon match the value recorded in the ICM model for the "Transformer" line item, which is $19,643,710. OEB staff submits that Elexicon should address this discrepancy and update its ICM model as necessary in its reply submission.

<u>Materiality</u>

The *Report of the OEB: New Policy Options for Funding of Capital Investments: The Advanced Capital Module* (ACM Report) states that distributors must meet an OEB-defined materiality threshold and a project-specific materiality threshold.[23]

The ACM Report explains materiality as follows:

> A capital budget will be deemed to be material, and as such reflect eligible projects, if it exceeds the OEB-defined materiality threshold. Any incremental capital amounts approved for recovery must fit within the total eligible incremental capital amount (as defined in this ACM Report) and must clearly have a significant influence on the operation of the distributor; otherwise, they should be dealt with at rebasing.
>
> Minor expenditures in comparison to the overall capital budget should be considered ineligible for ACM or ICM treatment. A certain degree of project expenditure over and above the OEB-defined threshold calculation is expected to be absorbed within the total capital budget.[24]

In the application as originally filed, Elexicon applied a price cap index of 1.9% as a placeholder, as the inflation factor for 2022 was not yet approved by the OEB. The 1.9% figure was based on the 2021 inflation factor of 2.2% less a productivity factor of 0% and a stretch factor of 0.3%. Elexicon calculated the materiality threshold for the Veridian RZ to be $18,798,246. The OEB's decision and order on the 2022 inflation parameters was issued on November 18, 2021, approving an inflation factor of 3.3% for electricity distributors.[25] OEB staff has updated Elexicon's ICM model to reflect the

[23] EB-2014-0219, Report of the OEB: New Policy Options for Funding of Capital Investments: The Advanced Capital Module, September 18, 2014, Pages 16-17
[24] ACM Report, Page 17
[25] EB-2021-0212 Decision and Order, Issued November 18, 2021

OEB-approved 2022 inflation factor, and the resulting price cap index of 3.0%, and has attached the updated model to this submission. OEB staff notes that this update did not have a material impact on Elexicon's ICM request.

Elexicon stated that its 2022 capital forecast is $80,295,947 for the Veridian RZ.[26] Using the 2022 capital forecast and materiality threshold, Elexicon calculated a maximum eligible incremental capital amount of $61,497,701 for the Veridian RZ. OEB staff has no concerns with Elexicon's calculation of its maximum eligible incremental capital amount. Again, after updating the ICM model for the 2022 inflation factor, OEB staff notes no significant impact on Elexicon's materiality threshold or maximum eligible incremental capital amount. Using the 2022 price cap index of 3.0%, OEB staff calculates a materiality threshold for Elexicon of $22,626,664 and resulting maximum eligible incremental capital of $57,669,283. Elexicon's total requested ICM funding of $44,141,300 remains within the maximum eligible incremental capital amount.

With regard to the project-specific materiality threshold, projects that are minor expenditures in comparison to the overall budget of the distributor are not eligible for ICM treatment.[27] Elexicon submitted that both projects are material and represent a significant influence on its operations.

For the Seaton TS project, OEB staff agrees that this project meets the project-specific materiality threshold as the project accounts for approximately 50% of Elexicon's total capital spending for the entirety of 2022.

For the BRT project, OEB staff agrees that this project also meets the project-specific materiality threshold. OEB staff notes that the OEB had approved similarly sized road relocation ICM projects in Alectra Utilities' 2021 rates proceeding and found those projects to be material.[28] By comparison, Alectra Utilities had a larger total capital budget and lower costs for its road widening projects. Relative to Alectra Utilities, OEB staff submits that Elexicon's BRT project accounts for an even larger percentage of its total capital budget and should therefore also meet the project-specific materiality threshold. Furthermore, if the cost of the Seaton TS is removed, the BRT project represents 8.4% of Elexicon's total 2022 capital spending – OEB staff submits that this further demonstrates that this project is material to Elexicon.

[26] Manager's summary, Appendix B, p.5
[27] ACM Report, page 17
[28] EB-2020-0002, Decision and Rate Order, December 17, 2020, p. 62-63; Goreway Road Widening Project and Rutherford Road Widening Project

Need

The ACM Report describes the "need" criterion as follows:

> The distributor must pass the Means Test (as defined in the ACM Report).
>
> Amounts must be based on discrete projects and should be directly related to the claimed driver. The amounts must be clearly outside of the base upon which the rates were derived.[29]

Under the Means Test, if a distributor's regulated ROE exceeds 300 basis points above the deemed ROE embedded in the distributor's rates, then the funding for any incremental capital project will not be allowed. Elexicon states that its most recently available ROE (for 2020) is 6.80% and that this is 2.63% lower than its consolidated deemed ROE percentage of 9.43%.[30] Elexicon explains that, because it has yet to rebase as a consolidated entity, it needed to determine a consolidated ROE percentage. To do so, Elexicon used the weighted average of the OEB-approved deemed equity ratio for each rate zone from the most recent OEB-approved rebasing applications of each predecessor company. For the purposes of assessing need for the ICM project, given Elexicon underearned by a reportedly substantial margin, OEB staff takes no issue with Elexicon's achieved regulatory ROE and submits that Elexicon has passed the Means Test.

For both ICM projects, Elexicon submitted that the projects are discrete and directly related to the claimed driver.[31] OEB staff agrees. The Seaton TS project relates specifically to the construction of Seaton TS, is not a typical annual capital program, and is outside of Elexicon's existing rate base. The BRT project has a clearly defined scope and is also outside of Elexicon's existing rate base. As OEB staff noted above, the OEB has in the past approved ICM funding for similar road widening type projects.[32]

Prudence

The ACM Report describes the "prudence" criterion as follows:

> The amounts to be incurred must be prudent. This means that the distributor's decision to incur the amounts must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.[33]

[29] ACM Report, Page 17
[30] Manager's summary, Appendix B, p. 9
[31] Ibid.
[32] See Alectra Utilities 2021 IRM application, EB-2020-0002
[33] ACM Report, Page 17

### Seaton TS:

Seaton TS is intended to address capacity concerns in the Pickering-Ajax-Whitby sub-region. Whitby TS currently supplies this sub-region and it is forecasted to exhaust all remaining available capacity due to new developments in the Seaton area. The need for Seaton TS was confirmed in regional planning involving Elexicon, the IESO and Hydro One and the regional planning reports provided by Elexicon indicate that a new 230 kV to 27.6 kV (i.e. Seaton TS) was the recommended solution.[34]

The original plan identified in regional planning was for the new Seaton TS to be constructed in 2018 as capacity at Whitby TS was forecasted to be exceeded by 2019.[35] However, the growth in load did not materialize as originally forecast and the construction of the TS experienced a series of delays which pushed the in-service date to now 2022.[36] Elexicon expects to place Seaton TS in-service by November 2022.[37] Notwithstanding the prior load forecasts, Elexicon noted that Whitby TS is expected to run out of capacity by 2023.[38]

In deciding on a solution to address the capacity concerns, Elexicon considered ten options, which are detailed in the application.[39] These options explored three different locations for Seaton TS and the possibility of constructing additional feeders from neighboring TSs in lieu of constructing the Seaton TS. Elexicon compared the net present value of the total cost to customers of each option and submitted that its chosen option to construct Seaton TS at Site 2 (out of the three locations considered) represented the most cost-efficient option. Out of the options provided, Elexicon’s preferred option represents the lowest cost at $40.8M, with other options ranging from $72-130M.[40]

In choosing to construct Seaton TS, Elexicon also considered three different site options. It conducted an Environmental Assessment, which identified Site 2 as the preferred location as it had the most preferable combination of environmental, technical and economic impacts.[41]

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[34] There are two regional planning reports provided by Elexicon Energy. The Integrated Regional Resource Plan (IRRP) for the Pickering-Ajax-Whitby Sub-region, June 30, 2016; The Regional Infrastructure Plan (RIP) for GTA East, January 9, 2017.
[35] See IRRP, p. 5
[36] IRR OEB-Staff-5, PWU-4, SEC-6
[37] IRR OEB Staff-5
[38] IRR OEB Staff-4
[39] Manager’s summary, Appendix B, p. 11-15
[40] Ibid
[41] IRR OEB Staff-1

Furthermore, in response to an interrogatory, Elexicon indicated that it had also considered the option of a Hydro One owned TS, as opposed to owning and operating the TS itself. Elexicon noted that owning and operating the TS itself is preferable because it has a lower capital cost and would allow customers to avoid paying transformation charges for the life of the facility.[42]

To ensure costs are reasonable, Elexicon solicited competitive bids from qualified vendors for all major expenditures and benchmarked the costs of Seaton TS against other similar projects completed in Ontario.[43] In response to an interrogatory, Elexicon stated that it has employed a stipulated price contract with its general contractor, which places the risk of cost overruns on the general contractor, with exceptions for changes in scope of work or conditions outside the control of the contractor.[44]

OEB staff submits that the cost of the Seaton TS project is prudent. Given the evidence provided, OEB staff submits that Elexicon has done its due diligence in ensuring that costs are competitive and reasonable and taken steps to mitigate the risk of cost overruns. Further, OEB staff believes that Elexicon has evaluated a reasonable range of options to address the capacity issue discussed above and chosen the option that represents the most cost-effective solution to customers. The construction of Seaton TS is expected to provide adequate load capacity to the region for the foreseeable future.

**BRT Highway 2 Project:**

Elexicon noted that this project is non-discretionary and must be completed to fulfill its obligations under the *Public Service Works on Highways Act*. To relocate its assets, Elexicon considered three options: 1) relocate overhead and underground assets based on the current configuration (i.e. a like-for-like relocation); 2) relocate all assets overhead; 3) relocate all assets underground.

Elexicon explained that option two is not feasible because relocating all assets overhead would conflict with Hydro One's distribution assets in the area, would have inadequate clearances, and would not comply with the requirements set forth by the City of Pickering. For option three, Elexicon explained that it would be significantly more expensive to relocate all assets underground ($5.27M for option three versus $3.38M for the preferred option one). Given these considerations, Elexicon chose option one as the preferred option.

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[42] Transformation charges refer to the transformation component of the Retail Transmission Service Charges. These charges are typically collected from customers and paid to the upstream operator of the TS; this is therefore not applicable if Elexicon Energy owns and operates the TS.
[43] IRR OEB Staff-3
[44] Ibid

In an interrogatory response, Elexicon provided a cost breakdown of this project that listed the quantity of materials and unit prices.[45] Elexicon explained that the scope and quantities were determined based on the preliminary engineering design. To ensure that costs are reasonable, Elexicon compared the cost against other comparable past projects involving overhead relocations. With respect to the underground portion of the work, Elexicon did not have any comparable past projects with a similar amount of underground work, and so Elexicon compared the unit costs of major assets instead. Based on the evidence provided, OEB staff submits that the cost of the BRT Highway 2 Project is prudent.

- All of which is respectfully submitted -

[45] IRR OEB Staff-10