

IN THE MATTER OF an Application by Elexicon Energy Inc. Corporation to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity for Elexicon Energy Inc. as of January 1, 2022

Submissions of the Power Workers' Union

INCREMENTAL CAPITAL MODULES ("ICM")

1. Elexicon Energy Inc. ("Elexicon") is requesting approval for incremental capital funding (i.e., for capital investments that are not funded through existing distribution rates) for the Veridian Rate Zone ("VRZ") for 2022, as set out in Table 1:

Table 1: 2022 Eligible Capital Projects¹

Veridian RZ			
Project Description	Gross	Contribution	Capital Expenditure
Seaton TS	40,762,000	-	40,762,000
BRT Highway 2	5,299,000	(1,920,000)	3,379,000
Total VRZ Incremental Capital	\$46,061,000	(\$1,920,000)	\$44,141,000

2. The PWU submits that the requested incremental capital amounts should be approved for the following reasons:

¹ Appendix B – Incremental Capital Module, page 6

1. The Projects are Non-Discretionary

3. The incremental capital requested for the Seaton Transformer Station (“Seaton TS”) and the Bus Rapid Transit Highway 2 (“BRT Highway 2”) projects scheduled to be in-service in 2022 are discrete and non-discretionary projects that are above and beyond the basis upon which rates were set.

4. Seaton TS is necessary to meet load growth in the Pickering area. The need for Seaton TS was identified in consultation with the IESO and Hydro One during a Regional Planning Process.² Customers in the Seaton community are currently served by the Whitby TS and Cherrywood TS. The 2016 Pickering Ajax Whitby Integrated Regional Resource Plan (“IRRP”) expected regional demand to exceed the capacity of the Whitby TS by 2018, however, lower-than-expected population growth delayed the need for additional capacity until 2023.³ The Seaton TS must be in service in 2022, before the capacity of Whitby TS is exceeded.

5. The current level of population growth and known housing developments in the area demonstrate the need for additional capacity. From 2020 to 2024, it is forecasted that 7,747 new households will be built in Seaton.⁴ This represents a significant increase in customers and load in the Seaton community, beyond what can be met with existing infrastructure. Growth in other communities served by the Whitby TS are putting additional pressure on the capacity of existing assets.⁵

6. The BRT Highway 2 project is non-discretionary as it is required under the *Public Service Works on Highways Act* (“PSWHA”). Pursuant to the PSWHA, Elexicon is legally obligated to remove, relocate or reconstruct distribution system assets to accommodate projects conducted by road authorities.⁶

2. The requested ICM meets the eligibility criteria of materiality, need and prudence

² Appendix B-2: Seaton TS DSP Business Case, page 1

³ Staff-4

⁴ Appendix B-2: Seaton TS DSP Business Case, page 4

⁵ Appendix B-2: Seaton TS DSP Business Case, page 8

⁶ Appendix B – Incremental Capital Module, pages 9-10

7. The Board's Decision and Order on Elexicon's MAADs application (EB-2018-0236) found that the newly merged LDC would be able to apply for ICM funding during the deferred rebasing period.⁷ The requested ICM satisfies the eligibility criteria of materiality, need and prudence set out in section 4.1.5 of the *Report of the Board – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module* (EB-2014-0219), issued on September (the "ACM Report").

8. In the MAADs application, Elexicon identified the Seaton TS and a Belleville operations centre as potential projects for which it would apply to the Board for ICM funding.⁸ Elexicon subsequently decided to proceed with the Belleville operations centre in 2022 without ICM funding.⁹ Instead, the capital costs are absorbed within Elexicon's total capital budget.¹⁰ This was not possible for the Seaton TS and BRT Highway 2 projects. The scope of the BRT Highway 2 project was not known at the time of the MAADs application.

9. Elexicon has calculated the capital expenditure materiality threshold of \$18.8 million, which, given the 2022 total capital budget of \$80.3 million, results in \$161.5 million in maximum eligible incremental capital.¹¹ Elexicon calculated the materiality threshold using the Board-approved rate base and depreciation amounts from its 2014 Cost of Service application (EB-2013-0174), a price cap index (PCI) of 1.9% and a growth rate of 0.40%.¹² The PCI of 1.9% is based on inflation of 2.2% less a productivity factor of 0% and a stretch factor of 0.3%.¹³ The growth rate of 1.40% is calculated in accordance with the ACM Report.¹⁴ The requested incremental capital for Veridian RZ of \$44,141,000 therefore satisfies the Board's materiality threshold criteria and is also significant amount in relation to the 2022 Capital expenditure budget.

⁷ Appendix B – Incremental Capital Module, page 1

⁸ EB-2018-0236 (MAADs Application), page 20

⁹ PWU-1

¹⁰ VECC-5

¹¹ Appendix B – Incremental Capital Module, page 5

¹² Ibid.

¹³ Ibid.

¹⁴ Report of the Board – New Policy Options for the Funding of Capital Investments: The Advanced Capital Module (EB-2014-0219), September 18, 2014

10. Elexicon's application also meets the means test set in the ACM Report and therefore qualifies for funding through an ICM. Specifically, if a distributor's regulated return, as calculated in its most recent calculation exceeds 300 basis points above the deemed return on equity ("ROE") embedded in the distributor's rates, the funding for any incremental capital project will not be allowed. Elexicon's 2020 ROE was calculated to be 6.80%, 263 basis points below its deemed ROE of 9.43%.¹⁵

3. Not approving the requested ICM would result in deterioration of assets

11. If the Board were to deny the requests for ICM funding, Elexicon would be forced to redeploy its capital spending from other priorities in order to complete these non-discretionary projects. This would reduce the capital investments contemplated in its DSP, which would increase the risk that Elexicon will not be able to meet the service quality and reliability expectations of its customers in the years ahead.

12. The Seaton TS project has a capital cost which, on its own, exceeds VRZ's capital expenditure budget in all historic years. The project clearly cannot be absorbed by the level of funding included in existing rates. Elexicon can not be expected to meet increasing loads without considerable investments in new capital assets.

13. Elexicon regularly undertakes road relocation projects, but the BRT Highway 2 project is materially larger than other relocations. The BRT Highway 2 project is the largest road relocation project undertaken by Elexicon since 2014.¹⁶ The BRT Highway 2 project is a system access project. VRZ's average annual system access capital expenditure budget was \$7.07 million from 2016-2021.¹⁷ Net of contributions, the \$3.38 million budget for this project is nearly half (48%) of VRZ's 5-year historic average annual system access budget. This is a considerable portion of the VRZ budget for which existing rates are based upon and Elexicon can not simply fit the BRT Highway 2 project within its total capital budget without making material reductions to spending in other areas, which is not supported by the DSP.

¹⁵ Appendix B – Incremental Capital Module, page 9

¹⁶ Staff-11

¹⁷ Appendix B – Incremental Capital Module, page 6

14. Furthermore, as the project is non-discretionary, Elexicon does not have control with respect to the schedule or scope of the relocation. Elexicon does not have sufficient flexibility with respect to pacing this investment among other necessary investments. If Elexicon does not receive ICM funding it would be forced to defer the necessary projects identified in its DSP.

4. Ontario's plan to accelerate transit and road projects

15. Ontario recently approved the *Building Transit Faster Act, 2020*, which will increase the demand on utilities for capital expenditure in System Access. Utilities which are required to support this identified public priority must be permitted to do so without jeopardizing the sustainability and integrity of other parts of the systems they operate and maintain. Projects like the BRT Highway 2 project warrant the Board's approval of requested incremental capital going forward. While utilities should be able to absorb the of costs of a majority of road relocations projects in their rates, certain transit investments are lumpy in nature. The utility projects undertaken to enable transit will be correspondingly lumpy and the full scope and schedule of each project can not be known at the time of each COS application.

16. The acceleration of system access work requirements (i.e., transit and road work which is outside of the utility's control) will increase pressure on Elexicon to reallocate available funds from system renewal and system service, which will limit Elexicon's ability to address other necessary asset investments and replacements. The appropriate method to address system access capital requirements for transit and road work projects that are expected to accelerate is through the ICM and therefore the Board should approve Elexicon' requested incremental capital.

EARNINGS SHARING MECHANISM

17. Elexicon's MAADs application (EB-2018-0236) proposed for an earnings sharing mechanism ("ESM") to be applied from years 6 to 10 of its deferred rebasing period. The Board's Decision and Order ordered Elexicon to file a proposal for the methodology to be used to calculate the ESM by the end of 2021. Elexicon included an ESM proposal as part of this application.

18. Elexicon proposes to derive an ROE for the merged utilities based on a weighted average of the ROE applicable to each of the Veridian RZ and Whitby RZ.¹⁸ The respective ROEs are weighted based on each rate zone's OEB-approved rate base. The weighted ROE for Elexicon as a whole is calculated as 9.43%. Ratepayers would be refunded 50% of earnings above 300 basis points higher than the 9.43% weighted ROE.

19. As Elexicon notes, this methodology is aligned with the OEB Handbook, which states under the "Rate-setting Policies for Consolidations" heading:

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.

20. The PWU submits that Elexicon's ESM proposal is aligned with OEB policies and should be approved.

All of which is respectfully submitted

¹⁸ Appendix C – Earnings Sharing Mechanism, page 2