

ONTARIO ENERGY BOARD

IN THE MATTER OF the *Ontario Energy Board Act*, 1998, being Schedule B to the *Energy Competition Act*, 1998, S.O. 1998, c.15;

AND IN THE MATTER OF an Application by Elexicon Energy Inc. (“Elexicon”) to the Ontario Energy Board for Approval of its Z-Factor Application to Recover the Costs to Restore Electricity Service Following a Storm Event

April 6, 2023.

Submissions of the Power Workers’ Union (PWU)

A. Introduction

1. On December 9, 2022, Elexicon Energy Inc. (“Elexicon” or “the Applicant”) filed a Z-factor event application with the Ontario Energy Board (“OEB” or the “Board”) for approval to recover from its customers the costs to restore electricity service following a storm that occurred on May 21, 2022. Elexicon’s evidence indicates that it experienced a Z-factor event as a result of a derecho storm (the “Derecho Storm Event”) that swept through the province of Ontario, including large portions of Elexicon’s service territory.¹ This widespread and fast-moving storm caused extensive damage to Elexicon’s infrastructure, leading to prolonged power outages for the majority of Elexicon’s customers, resulting in Elexicon incurring material costs. Elexicon is seeking recovery of a total of \$4,602,788 in expenditures associated with the restoration of electricity service to its customers and proposes to recover this amount from rate payers via two rate riders effective July 1, 2023.

2. The PWU submits that the Z-factor Application should be approved as filed, subject to any updates and adjustments filed by the Applicant, for the following reasons.

¹ Elexicon Z-Factor Application, Page 1

B. Elexicon's Z-Factor Claim Satisfies Each of the OEB's Three Eligibility Criteria: Causation, Materiality and Prudence

3. The PWU submits that the Derecho Storm Event meets the Z-factor eligibility criteria as set out in Section 2.6 of the Ontario Energy Board's Report on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors dated July 14, 2008 (the "Z-Factor Guidelines") and Section 3.2.8 of the Board's Chapter 3 Filing Requirements for Electricity Distribution Rate Applications, dated May 24, 2022 ("the Chapter 3 Filing Requirements").

i. Causation

4. The costs included in this Z-factor recovery claim were directly related to the restoration of service in the wake of the May 21, 2022 Derecho Storm Event; absent the Derecho Storm Event, Elexicon would not have incurred any of the costs requested for recovery.

5. In its evidence, Elexicon has verified that the amounts sought for recovery are outside of the base upon which its rates were derived. This is demonstrated in Elexicon's response to interrogatory STAFF-01(a) which asked it to describe all budgets included in Veridian Connection's and Whitby Hydro's base rates related to emergency response (for storm restoration or other emergency response/maintenance) – capital and operating:

Response:

- a) Veridian Connection's base rates included \$744,435 in operating costs and \$0 in capital costs for emergency restoration at the time of the last rebasing. Whitby Hydro's base rates included \$137,492 in operating costs and \$0 in capital costs for emergency restoration at the time of the last rebasing. As per Table 1 below, Elexicon has incurred operating costs of \$2,039,589 which is in excess of these amounts. Therefore, all of the costs included in the Z-factor claim are incremental to the basis on which rates are set.

6. In addition, Elexicon presented Table 1 below which shows the annual budgets and actual amounts for capital expenditures and OM&A related to storm restoration or other emergency response/maintenance since the 2019 amalgamation of Veridian Connections and Whitby Hydro to present.

Table 1- Capital and OM&A Budget and Actuals Since 2019²

	2019		2020		2021		2022	
	Budget \$	Actual \$	Budget \$	Actual \$	Budget \$	Actual \$	Budget \$	Actual \$
Capital	-	-	-	314,308	-	377,253	-	404,401
Capital z-factor	-	-	-	-	-	-	-	4,379,603
Subtotal - Capital	-	-	-	314,308	-	377,253	-	4,784,004
Operating	2,007,090	2,027,666	1,796,606	1,620,668	2,009,305	1,647,300	1,829,524	1,816,403
Operating - z-factor	-	-	-	-	-	-	-	223,186
Subtotal - Operating	2,007,090	2,027,666	1,796,606	1,620,668	2,009,305	1,647,300	1,829,524	2,039,589
Total	2,007,090	2,027,666	1,796,606	1,934,976	2,009,305	2,024,553	1,829,524	6,823,593

7. Table 1 demonstrates that Elexicon has had no budget for capital related to storm restoration or other emergency response/maintenance since amalgamation; nevertheless, it made significant capital expenditures in 2020, 2021 and particularly in 2022 when it spent \$4.8 million in capital. Similarly, Elexicon's 2022 OM&A actual spend related to storm restoration was in excess of its OM&A budget by over \$200,000.

8. Similarly, the Applicant's evidence on annual budgeted and actual amounts for capital expenditures related to system renewal since amalgamation shows that Elexicon actual capital expenditure on system renewal exceeded its budgeted amount by over \$5 million.³

Table 2 System Renewal budget and actual capital expenditures since 2019

	2019		2020		2021		2022	
	Budget \$	Actual \$	Budget \$	Actual \$	Budget \$	Actual \$	Budget \$	Actual \$
Capital	20,687,000	32,075,913	16,928,813	15,404,689	19,667,064	19,947,139	15,216,294	20,242,938

9. The PWU is concerned that the Applicant has had no capital budget allocated for storm restoration or for any emergency response since amalgamation, particularly in the face of climate change that is causing a more frequent occurrence of storm events like the Derecho Storm Event. This could result in the deferral of regular, necessary, and planned capital investments as Elexicon would be forced to reallocate resources to respond to storm events. This in turn will have serious implication to the integrity and resilience of Elexicon's distribution system.

² Interrogatory STAFF-01 (b)

³ Interrogatory STAFF-01 (c)

10. However, for present purposes, the evidence clearly demonstrates that the Z-factor application meets the causation threshold.

ii. Materiality

11. Elexicon's evidence shows that the materiality threshold applicable to it is 0.5% of distribution revenue requirement, which is the threshold applicable to distributors with a revenue requirement greater than \$10M and less than or equal to \$200M.⁴ Elexicon calculated its materiality threshold to be \$346,352; equal to 0.5% of its distribution revenue requirement of \$69,126,603, which is the sum of revenue requirement approved in Veridian and Whitby Hydro's last cost of service applications.⁵

12. The PWU notes that Elexicon originally calculated the relief it sought to be \$677,031 but later revised the amount to \$601,936 following a reclassification of some operating expenses.⁶ In any case, the \$601,936 relief sought as a result of expenditures incurred during the May 21 derecho storm exceeds the materiality threshold of \$346,352.

13. The PWU has reviewed Board Staff's calculation of materiality threshold for Elexicon, which is based on Elexicon's 2022 revenue requirements.⁷ Board Staff's justification for its approach is that the derecho storm took place in 2022. Accordingly, Board Staff suggests a threshold of \$422,555 which is 22% higher than the materiality threshold claimed by the Applicant.⁸ In response to Board Staff's interrogatory, Elexicon explained that its use of its last Cost of Service OEB approved revenue requirements for the Whitby and Veridian Rate Zones is based on the OEB approved approach as set out in the Decision and Order for Canadian Niagara Power Inc.'s (CNPI's) IRM and Z-factor claim (EB-2020-0008).⁹

⁴ Elexicon Z-Factor Application, page 10

⁵ Ibid.

⁶ Z-Factor Application IRRs, response to STAFF-02

⁷ Z-Factor Application IRRs, response to STAFF-13

⁸ Z-Factor Application IRRs, response to STAFF-13

⁹ Ibid.

14. The PWU agrees with the Applicant that using the OEB-approved methodology for calculating the Z-Factor materiality threshold is appropriate and consistent.

15. Regardless, on any proposed calculation of the materiality threshold, the Applicant exceeds it.

iii. **Prudence**

16. It is undisputed that the Derecho Storm Event was outside the Applicant's control and that the extent of the damage significantly impacted its operations. In light of this, Elexicon management should be commended for enacting a Readiness Alert to the Core Power Restoration Team to stand-by in the Virtual Incident Command Centre prior to Environment Canada issuing a Severe Thunderstorm Warning on May 21, 2022¹⁰ and also for restoring service to approximately 90% of customers by May 23, 2022.¹¹

17. The Applicant's evidence lists actions that demonstrate the amounts associated with restoring service to customers were incurred prudently and cost-effectively. These include:

- With regards to the capital additions, Elexicon pulled primarily from its existing inventory/stores for replacements thereby minimizing the costs to procure materials on an emergency basis; for the additional materials purchased, it did not incur incremental costs over the current pricing that was negotiated for Elexicon's regular day-to-day purchases.¹²
- Elexicon utilized all available internal labour, the costs of which are set in its collective agreement with the PWU and its existing Overtime Policy; for outside contractors, Elexicon used pre-approved contractors who charged pre-established rates.¹³
- All assets were replaced on like-for-like bases and no upgrades were installed.¹⁴

¹⁰ Elexicon Z-Factor Application, Page 8

¹¹ Elexicon Z-Factor Application, Page 4

¹² Z-factor Application, Page 13

¹³ Ibid.

¹⁴ Z-Factor Application IRRs , Staff-04 (d)

- Elexicon requested support from other sister utilities even though none of them were able to provide the support requested during the timeframes needed.¹⁵

iv. Regulatory Return on Equity (ROE)

18. In addition to the foregoing three thresholds, Elexicon's application meets the OEB's 2023 *Incentive Rate-setting Applications Filing Requirements* that state:

To be eligible for a Z-factor claim, a distributor must demonstrate that its achieved regulatory return on equity (ROE), during its most recently completed fiscal year, does not exceed 300 basis points above its deemed ROE embedded in its base rates.¹⁶

19. In this respect, Elexicon 's achieved regulatory ROE for 2021 was 6.97%, which is 2.56% less than the 9.43% OEB approved ROE and its forecast for its regulated 2022 ROE is expected to be below the OEB Deemed ROE and fall within the OEB's 300 basis points ROE deadband.¹⁷

20. The PWU submits that Elexicon has sufficiently demonstrated that its application meets the Board-established causation, materiality, and prudence criteria as well as the Board's 2023 Incentive Rate-setting Applications Filing Requirements with respect to Z-factor applications and, therefore, the Board should approve it as filed.

All of which is respectfully submitted.

¹⁵ Z-factor Application, Page 13

¹⁶ Chapter 3 Incentive Rate-Setting Applications May 24, 2022, Page 21

¹⁷ Elexicon Z-Factor Application, Page 7