



July 7, 2023

Delivered by Email & RESS

Nancy Marconi
Registrar
Ontario Energy Board
P.O.Box 2319, 27th Floor
2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: EB-2023-0143 – Elexicon Energy Inc. (“Elexicon”)
Request for Generic Variance Account
Letter of Direction to Produce Evidence**

In response to the Ontario Energy Board’s June 14, 2023 *Letter of Direction to Produce Evidence* please find attached the additional information requested.

Please contact the undersigned with any questions concerning this matter.

Regards,

A handwritten signature in blue ink, appearing to read "Stephen Vetsis", is written over a faint, light blue circular stamp.

Stephen Vetsis
Vice President - Regulatory Affairs and Stakeholder Relations
Elexicon Energy Inc.
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1 Background

2 On May 11th, 2023, Elexicon along with a group comprising of many of Ontario's largest
3 local distribution companies ("LDCs") filed a letter with the Ontario Energy Board ("OEB")
4 requesting that the OEB establish generic, sector-wide variance accounts for distributors
5 to track the incremental costs of providing locates in 2023 and future years arising from
6 the implementation of recent Provincial legislation: *Bill 93, Getting Ontario Connected Act,*
7 *2022*. Elexicon agrees with the arguments put forth in the letter regarding the need for the
8 deferral account and the outlined rationale for how the request meets the OEB's criteria
9 of causation, materiality and prudence.

10 On June 14th, 2023, the OEB issued a letter ("the Letter") to the group of distribution
11 companies requesting that they file certain evidence to determine whether a hearing may
12 be required to consider the request for a new generic variance account. Specifically, the
13 OEB requested evidence addressing the following:

- 14 1. Evidence on what costs related to locates are currently included in each of the
15 Large Utilities' approved revenue requirement (and hence already included in base
16 rates).
- 17 2. Evidence on the number of locates that were conducted by each of the Large
18 Utilities in the years 2017-2022.
- 19 3. Evidence on the incremental costs due to an increased volume of locates requests,
20 and the incremental costs due to the need to meet the new requirements under
21 Bill 93. Further, the utility should provide evidence on the materiality of these
22 incremental locates costs, and a general description of how the utility plans to incur
23 the incremental costs prudently.
- 24 4. An explanation of why the generic variance account should be retroactive to
25 January 1, 2023.
- 26 5. Draft accounting order for the requested locates services costs variance account.



1 Policy Context and Cost Drivers

2 Bill 93, *Getting Ontario Connected Act, 2022* received Royal Assent on April 14, 2022.
3 Among other things, Bill 93 included amendments to the *Ontario Underground*
4 *Infrastructure Notification System Act, 2012* (the Act) that are intended to improve the
5 processes and requirements related to determining the location of underground
6 infrastructure, enabling construction activities in the province to be completed faster and
7 more efficiently, without compromising safety. The amendments to the Act arising from
8 Bill 93 require LDCs to complete locate requests within five days, failing which the LDC
9 is subject to administrative monetary penalties (“AMPs”) under the Act.

10 Bill 93 will impact the existing framework for locate delivery services across Ontario.
11 LDCs will incur much higher costs to provide locate services to their customers than had
12 originally been forecasted and built into distribution rates. The costs of these new
13 requirements are not included in approved rates as the requirements did not exist and
14 were not contemplated when rates were set.

15 The predominant drivers of costs are:

- 16 • Government Policy: The government of Ontario has prioritized the building of
17 infrastructure and housing, and passed several pieces of new legislation including:
18 *Bill 23 – More Homes Built Faster Act*, *Bill 171 – Building Transit Faster Act*, *Bill*
19 *257 – Building Broadband Faster Act*, and, *Bill 93 – Getting Ontario Connected*
20 *Act*. These bills, along with accompanying legislation, are intended to promote an
21 acceleration of economic activity in their related areas. What is common among
22 the bills is that they strive to increase the volume of new construction and will
23 require the location of underground infrastructure. In combination, these bills are
24 expected to drive a large increase in the volume of locate activity and put upwards
25 pressure on the need for LDC resources.
- 26 • Changing Labour Market: A key factor for the cost increases in locate services has
27 been the tightening labour market and the wage gap of jobs for locators compared
28 to other work in the broader construction industry. Locate work has traditionally
29 been carried out at comparatively low wage levels (depending on location and
30 contract, typically less than \$20/hr). With a tightening labour market, holding onto
31 workers has proven challenging. Comparable, “entry-level” work in other industries



can often start at \$24/hr or more. With a strong uptick in economic activity, brought on in part by new government legislation, the need to hire hundreds of additional workers has meant that hourly labour rates to retain and grow the workforce for providing locates have increased significantly. Particularly, given the enhanced liability requirements noted below.

- Introduction of Compliance Penalties:** In order to enforce the desired acceleration in economic activity, Bill 93 introduced the ‘absolute liability’¹ language related to the requirements for locates to be completed in 5 days, and the ability for Ontario One Call (“OOC”) to administer Administrative Monetary Penalties (“AMPs”) for locate timeline non-compliance. Additionally for regulated utilities, the Government of Ontario passed legislation to ensure that the cost of AMPs could not be passed on to rate-payers. The combination of requirements on 5 day locates, along with the threat of AMPs has forced utilities to dramatically scale up locate resources to meet new regulatory requirements and avoid penalties.

Evidence Request

Table 1 provides the quantitative data requested by the OEB in items 1, 2 and 3 of the Letter. Elexicon notes that its forecast actual costs of \$2,227,000 in 2023 are \$727,327 above amounts already including in its base rates.² This is well above Elexicon’s materiality threshold.

Table 1 – Historical Volume of Locates and Associated Costs

	Actuals						Forecast
	2017	2018	2019	2020	2021	2022	2023
Number of Locates Requests (source: RRR 2.1.4 - Appointments Scheduled)	27,676	28,551	30,389	25,455	28,175	28,153	
Cost of External Locate Delivery Services Included in Base Rates (source: Last Rebasing Application (applicable USoA))	1,334,223	1,345,505	1,360,921	1,383,319	1,408,855	1,450,361	1,499,673
Actual Cost of External Locate Delivery Services (source: corresponding USoAs)	1,279,587	1,219,329	1,388,088	1,230,934	1,107,117	1,244,584	2,227,000
Incremental Cost of External Locate Delivery Services	- 54,637	- 126,176	27,167	- 152,385	- 301,738	- 205,777	727,327

¹ The absolute liability language placed greater liability on entities providing locates to ensure accuracy in order to protect public safety.

² Elexicon confirms that 2023 forecast costs in Table 1 do not include any amounts related to AMPs.



Request #1: Locate Costs in Approved Revenue Requirement

Table 2 provides the costs related to locates that were included in Elexicon's approved revenue requirement at the time of rebasing. Elexicon's Veridian Rate Zone last rebased in 2014 and the Whitby Rate Zone last rebased in 2010. These amounts were adjusted by the annual OEB price cap index adjustment factors to arrive at the amounts in subsequent years shown in Table 1.

Table 2 Locate Costs in Approved Revenue Requirement

Rate Zone	Cost of Service EB Number	Approved Locate Costs @ rebasing
Veridian	EB-2013-0174	\$1,042,392
Whitby	EB-2009-0274	\$224,121

Request #2: Number of Locates

Table 1 above provides the number of locates that were conducted by Elexicon in the years 2017-2022. The number of locates dropped in the year 2020 primarily to COVID-19, which significantly impacted economic activity in Elexicon's service territory. Since 2020, the number of locate requests has risen to ~28,000 per year.

Request #3: Incremental Costs

Elexicon is forecasting roughly \$1.2M in incremental costs for provision of locate services in 2023 relative to 2022 amounts. The forecast costs are based on a forecast volume of locate requests in line with most recent actuals (~28,000). The forecast costs indicate that Elexicon will experience material incremental costs associated with ensuring its compliance with regulatory requirements to avoid AMPs regardless of whether there an increase in the volume of tickets due to policy-driven factors materializes.

Elexicon expects that there will be additional upwards pressure on the volume of locate requests beyond the recent levels of ~28,000/year. This is due to the impacts of the above-noted legislative changes which are driving development for new housing, broadband expansion and transit expansion in Elexicon's service territory. However, the magnitude of the anticipated rate of increase and associated costs is uncertain at this



1 time given that is it still early in the construction season for 2023 and is not reflected in
2 the forecast 2023 costs.

3 Elexicon anticipates taking a hybrid approach of seeking increased internal and external
4 resources to meet the increased regulatory requirements and potential increase in locate
5 volumes. This will allow Elexicon to efficiently manage the seasonal nature of locate
6 requests which are typically clustered during summer seasons where resource
7 requirements are the highest while also providing flexibility to further adjust resource
8 requirements in the future as greater certainty is achieved regarding locate volumes.

9 Additionally, Elexicon is investigating other avenues, both capital and OM&A, to improve
10 the administration of its locate services including examining software solutions to assist
11 in the processing of ticket requests, as well as investigating employing a dedicated locator
12 for provision of locates for its own infrastructure projects to improve efficiency of
13 deployment. Combined, these actions will ensure that incremental costs are incurred in
14 the most prudent manner possible while ensuring Elexicon is able to meet its regulatory
15 requirements.

16 ***Request #4: Effective Date of Generic Variance Account***

17 Elexicon's believes that the generic variance account should be retroactive to January 1,
18 2023 because this coincides with when the regulatory regime regarding AMPs was
19 finalized and utilities had to begin incurring costs to ensure compliance with the
20 requirements which were indicated to be effective April 1, 2023, at the time. Elexicon
21 notes that the policy work on the key elements of the AMPs regime was not completed
22 until late 2022/early 2023.

23 While a May 11, 2023 letter from the Minister of Energy subsequently delayed the
24 application of AMPs until April 1, 2024, LDCs had already began incurring costs in good
25 faith to ensure compliance with the original timing of the AMP regime. Regardless of the
26 delay in implementation, LDCs will still require significant lead time to obtain and train the
27 necessary resources to improve compliance with regulatory requirements and be
28 prepared for the above-noted public policy drivers which are anticipated to place upwards
29 pressure on the volume of locates.

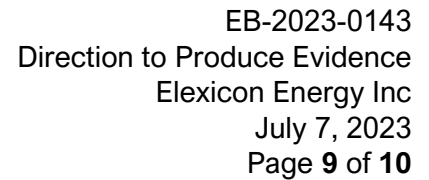


Request #5: Draft Accounting Order

Elexicon's proposed draft accounting order is provided in Attachment 1.



Attachment 1
DRAFT ACCOUNTING ORDER



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- 1 Dr. 1508 Other Reg Assets, Sub-account Incremental Locate Costs, Carrying Charges
- 2 Cr. 4405 Interest Income
- 3 *To record the carrying charges on the monthly opening balance in Account 1508, Other*
- 4 *Regulatory Assets, Sub-account Incremental Locate Costs.*