EB-2023-0013

E.L.K. Energy Inc.
Application for electricity distribution rates and other charges beginning May 1, 2024

Final Submissions of VECC January 25, 2024

E.L.K. Energy Inc. (E.L.K. Energy) filed an incentive rate-setting mechanism (IRM) application with the Ontario Energy Board (OEB) on October 11, 2023 under section 78 of the *Ontario Energy Board Act*, *1998*, seeking approval for changes to the rates that ELK Energy charges for electricity distribution, beginning May 1, 2024. ELK Energy has also applied for incremental capital funding for the purchase of two fleet vehicles and the purchase and installation of six recloser switches; as well as a Z-factor claim to recover the costs (and carrying charges) related to the damage caused to its distribution system by an ice storm and a thunderstorm. VECC submissions below relate to E.L.K. Energy's Z-factor and ICM requests.

Z-factor

E.L.K. Energy is seeking recovery of the operating expenditures and capital related revenue requirement associated with the restoration of electricity service to its customers following the two storm events in 2023: an ice storm on February 23, 2023[1] impacting all six of E.L.K. Energy's service areas and a thunderstorm on July 26, 2023 impacting two of E.L.K. Energy's service areas[2].

E.L.K. Energy has not filed for a Z-factor Application in the last 10 years.[3] E.L.K. Energy appropriately notified the OEB on August 22, 2023 and October 3, 2023 of its intent to file a Z-factor claim related to the two events.[4]

The combined requested relief resulting from the two major events is $417,611 as follows:

Costs	**Ice Storm**	**Thunderstorm**	**Total**
Operating	$226,863	$177,538	$404,401
Capital Revenue Requirement	$8,400	$4,809	$13,210
Total	**$235,263**	**$182,348**	**$417,611**

As per the 2022 Chapter 3 Filing Requirements, distributors under a Price Cap IR or Annual IR Index rate-setting plan may request to recover costs associated with unforeseen events that are

[1] Kingsville, Belle River, Essex, Harrow, Cottam, and Comber service areas

[2] Harrow and Kingsville services areas

[3] VECC# 1(a)

[4] Appendix A Appendix A-2

outside the control of a distributor's ability to manage, referred to as a claim for a "Z-factor" event. A distributor must submit evidence that the costs incurred meet the three eligibility criteria of causation, materiality, and prudence, as follows:

Criteria	Description
Causation	Amounts should be directly related to the Z-factor event. The amount must be clearly outside of the base upon which rates were derived.
Materiality	The amounts must exceed the Board-defined materiality threshold and have a significant influence on the operation of the distributor; otherwise they should be expensed in the normal course and addressed through organizational productivity improvements.
Prudence	The amount must have been prudently incurred. This means that the distributor's decision to incur the amount must represent the most cost-effective option (not necessarily least initial cost) for ratepayers.

Causation

E.L.K. Energy indicates both events were outside its control and significantly impacted operations, resulting in E.L.K. Energy incurring material costs, which were directly related to the Z-factor events and the restoration of service. E.L.K. Energy states "Had the Ice Storm and Thunderstorm Events not occurred, E.L.K. would not have incurred any of the costs requested for recovery." E.L.K. Energy indicates it has verified that the amounts sought for recovery are outside of the base upon which E.L.K. Energy's rates were derived", and "The costs resulting from these extreme weather events were not included in E.L.K.'s rates as set out in EB-2021-0016." E.L.K. Energy confirmed that the Z-factor claim does not include repair/upgrade cost of the current assets that are not impacted by the ice storm.[5]

In response to VECC #1(b) which requested that E.L.K. Energy provide the amount of storm restoration spending embedded in rates for the years 2018 to 2023, E.L.K. Energy responded that it does not have forecasted and actual storm costs for the years 2018 to 2022 in segregated accounts. Prior to 2022, E.L.K. Energy indicates it did not budget or track storm costs in segregated accounts, that storm costs during this period were allocated into appropriate maintenance accounts. E.L.K Energy then states it now budgets for and records actual costs related to storm response.[6] VECC is confused by this part of the response. If E.L.K. Energy now budgets for and records actual costs related to storm response, VECC submits any unused storm budget in 2023 should be applied against the Z-factor claim.

Materiality

E.L.K. Energy has an approved revenue requirement of $3,595,037 from its 2022 cost of service proceeding.[7] The Board determined that a $50,000 materiality threshold applies to distributors with a revenue requirement less than or equal to $10 million. Thus, E.L.K. Energy's materiality threshold is $50,000.

[5] Staff #2(e)
[6] VECC #1(b)
[7] EB-2021-0016 OEB Decision and Rate Order June 20, 2022 p. 7

E.L.K. Energy's Z-factor claims of $235,263 and $182,348 are each above E.L.K.'s threshold and considered material.

Prudence

a) Ice Storm Event

During the ice storm, there were a total of 3,077 customers without power representing approximately 24% of E.L.K. Energy's total customers. E.L.K. Energy restored 90% of the customers interrupted (not related to Loss of Supply) in approximately 27 hours and 90% of customers interrupted (included Loss of Supply) in approximately 48 hours.

In response to the Ice Storm, E.L.K. Energy deployed E.L.K. crews, a pole line contractor on standby and Distributor A and Distributor B sent crews to assist with the restoration. A breakdown of Ice Storm Costs is as follows:

Category	Operating $	Capital $	Total $
E.L.K. Staff	$66,582		$66,582
Work Order for Reconnect	$10,461		$10,461
Electrical Contractor	$112,503		$112,503
Distributor A	$34,664		$34,664
Distributor B	$2,653		$2,653
Electrical Contractor		$49,063	$49,063
Material		$11,326	$11,326
Total	**$226,863**	**$60,389**	**$287,252**

E.L.K. Energy replaced 10 poles, 20 fuses and 30 insulators as a result of the ice storm.[8] In response to a request for E.L.K. to identify the assets replaced that were scheduled for replacement as part of the capital plan, E.L.K. Energy indicated there were 3 poles that were identified in the pole inspections that were damaged during the February Ice Storm and were replaced during storm restoration.[9] VECC submits the cost of replacing the three poles should be removed from the Z-factor claim as the funding for this work was already reflected in the 2023 capital plan. The capital costs to replace the 10 poles was undertaken by the Electrical Contractor at a capital cost of $60,389.[10] VECC estimates the cost to replace 3 poles at $18,117. Thus, VECC submits $18,117 should be removed from the Z-factor capital costs.

[8] Staff #2(c)
[9] VECC #4(d)
[10] The $60,389 being capitalized is specific to the replacement of poles (Staff #2b)

b) Thunderstorm Event

5,028 customers experienced interruptions, representing approximately 41% of E.L.K. Energy's customers. E.L.K. Energy restored service to approximately 90% of customers by July 28, 2023, which took nearly 38 hours. All power was restored within a week for both events.[11]

After the February 2023 Ice Storm, E.L.K. Energy joined the Ontario Mutual Assistance Program (OnMAG) in May 2023. OnMAG allows a wide reach to other distributors and onMAG helped facilitate coordination with neighboring utility companies. E.L.K. Energy deployed available E.L.K. crews, Distributors A, B and C in close proximity to E.L.K's Energy's service area and thirsd party contractors to assist with the restoration. E.L.K. provided the invoices for the electrical contracting work, operating and capital,[12] and work undertaken by Distributor A and B. [13]

A breakdown of Thunderstorm Costs is as follows:

Category	Operating $	Capital $	Total $
E.L.K. Staff	$38,487		$38,487
Work Order for Reconnect	$8,007		$8,007
Electrical Contractor	$67,520		$67,520
Distributor A	$4,772		$4,772
Distributor B	$23,486		$23,486
Vegetation management Contractor	$12,968		$12,968
Electrical Contractor	$5,100		$5,100
Distributor C	$17,199		$17,199
Hydro Vac		$4,182	$4,182
Distributor B		$10,907	$10,907
Distributor C		$6,231	$6,231
Material		$13,253	$13,253
Total	**$177,538**	**$35,574**	**$212,112**

E.L.K. Energy replaced 6 poles, 1 cross arm, 15 fuses and 18 insulators.[14] In response to a request for E.L.K. Energy to identify the assets replaced that were scheduled for replacement as part of the capital plan, E.L.K. Energy indicated there was one pole that was identified in the pole inspections that was damaged during the storm and replaced during storm restoration.[15] VECC submits the cost of replacing one pole should be removed from the Z-factor claim as the funding for this work was already reflected in the 2023 capital plan. The capital costs to replace the 6 poles was a capital cost of $35,574. VECC estimates the cost to replace 1 poles at $5,929. VECC submits $5,929 should be removed from the Z-factor capital costs.

[11]
[12] VECC #4(e)
[13] VECC #4(f)
[14] Staff #3(d)
[15] VECC #5(d)

Emergency Response Plan (ERP

E.L.K. Energy indicates the ERP was fully activated in both events. The exception to the ERP was that some critical customers were not attended in the order prescribed in the ERP. This was driven by the location of power supply restorations by the host distributor, Hydro One Networks. E.L.K. Energy focused its own restoration efforts on affected primary circuits as they were cleared and become available from Hydro One Networks. [16] VECC takes no issue with E.L.K.'s application of its ERP.

Tree Trimming

For the years 2018 and 2019, E.L.K. underspent on its tree trimming budget by 28%.[17] In 2021, E.L.K. implemented a new tree trimming program to complete two entire towns each year or 1/3rd of the system every year as follows[18]:

Tree Trimming Schedule										
Area	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
#1	X			X			X			X
#2		X			X			X		
#3			X			X			X	

Inspection & Tree Trimming Areas		
Area #1	Town of Kingsville	Community of Kingsville Community of Cottam
Area #2	Town of Essex	Community of Essex Community of Harrow
Area #3	Town of Lakeshore	Community of Belle River Community of Comber

Prior to 2021, E.L.K. managed vegetation in a reactive manner based on customer complaints and operations inspection of vegetation growth around electrical circuit.[19] In 2022, E.L.K. committed to annual expenditures of at least $80K on vegetation management in its 2022 Cost of Service Settlement Agreement.[20] [21] In 2022 and 2023, E.L.K.'s spend on tree trimming exceeded the budgets and a description of the variances was provided.[22] In 2023, E.L.K. spent $263,147 on tree trimming against a budget of $200,000. At the end of 2023, all six communities were completed as planned. Tree trimming of the Harrow and Kingsville

[16] VECC #3(b)
[17] VECC #1(d) ($102,614/143,000) =72%
[18] VECC #6(b)
[19] VECC #6 (a)
[20] Staff #6(a)
[21] The 2022 budget of $61,625 was set prior to E.L.K. Energy's OEB approved Settlement Agreement in EB-2021-0016
[22] Staff #6(b)

communities, which were impacted by the July 2023 Thunderstorm, was completed in 2022. VECC takes no issues with E.L.K.'s new Tree Trimming strategy and accomplishments.

Return on Equity

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.

E.L.K. Energy indicates its achieved regulatory ROE for 2022 was -1.97%, which is 10.63% lower than the 8.66% OEB-approved ROE. Based on the best information available to E.L.K. Energy, 2023 ROE is expected to be less than OEB-approved deemed ROE of 8.66%. [23]

Other Considerations

- E.L.K. Energy primarily utilized existing inventory/stores for replacements and the assisting utilities that came to E.L.K.'s aid brought their own materials, contributing significantly to E.L.K.'s ability to maintain its stock levels.
- E.L.K. Energy procured the services of its pre-approved Contractor.
- Labour and contractor costs were incurred according to previously negotiated agreements.
- Portions of the system that were rebuilt were constructed on a 'like for like' basis.
- The operating costs for E.L.K. Energy staff does not include Regular Labour.[24]

Conclusion

E.L.K. Energy acted promptly to restore power and has demonstrated cost effective options were implemented for both storm events. VECC submits the OEB should approve E.L.K. Energy's Z-factor claim subject to the removal of capital costs related to pole replacements that were included in E.L.K. Energy's capital plan and removal of the unused 2023 storm budget.

Rate Riders

E.L.K. Energy calculated the bill impacts associated with 12- and 24-month recovery periods. E.L.K. is seeking recovery of $417,611 over a two-year period. The proposed fixed rate riders associated with E.L.K.'s Z-Factor request are proposed to be effective May 1, 2024, until April 30, 2026. VECC supports E.L.K Energy's calculation of the Z-factor rate riders.

[23] VECC #2
[24] VECC # 4(a)

Incremental Capital Module (ICM)

E.L.K. Energy is requesting approval of ICM funding for two projects: the purchase of two fleet vehicles and the installation of six Reclosing Switches. The total estimated capital expenditures for the Fleet Vehicles and Switches are $884,907 and $485,024, respectively for a total of $1,369,931. The total incremental annual revenue requirement associated with the ICM requests is $138,591.[25]

ICM Criteria

In order to qualify for ICM funding, a distributor must satisfy the OEB's eligibility criteria of materiality, need and prudence as follows:[26]

Materiality	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.
Need	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.
Prudence	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.

Materiality

E.L.K. Energy calculates a materiality threshold of $1.136 million. Taking into account this materiality threshold and the 2024 capital forecast of $3.008 million, E.L.K. Energy calculates $1.872 million as the Maximum Eligible Incremental Capital amounts for 2024.

[25] 0% tax rate

[26] OEB Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014 p.17

The 2024 capital forecast of $3,008,522[27] represents an increase to E.L.K. Energy's capital spending compared to the 2024 capital forecast of $1,136,000 in the 2022 Distribution System Plan (DSP). The variance of $1,872,522 is due to the two ICM projects and System Access Spending due to higher than forecasted customer connections.[28]

E.L.K. Energy's combined ICM capital expenditures of $1.37 million exceed E.L.K. Energy's materiality threshold and fits within the total eligible incremental capital amount. The cost of the two vehicles and switches represent 29% and 16% of the 2024 capital budget, respectively. Combined they represent 46% of the 2024 capital budget.

VECC submits E.L.K. Energy has met the materiality threshold.

Need

Means Test

If a distributor's most recently available regulated return on equity (ROE) exceeds 300 basis points above the deemed ROE embedded in the distributor's rates, then funding for any incremental capital project would not be allowed. As noted on page of AMPCO's submissions, E.L.K. Energy's ROE for 2022 and forecast for 2023 is less than OEB-approved deemed ROE of 8.66%.

E.L.K. Energy states "The ICM Projects are outside of the base upon which current rates were derived and the incremental capital amount being requested in this Application is directly related to the cost of each individual project."[29] E.L.K. Energy indicates it analyzed the capital expenditure forecast from 2024 to 2026 and determined there is no discretionary funding to support either the investment in the Fleet Vehicles or switches via existing rates.[30]

VECC's submissions on each ICM project are below.

a) Fleet Vehicles

The ICM funding request for E.L.K. Energy's Fleet Vehicles was noted in its OEB approved 2022 Cost of Service Settlement Agreement as follows:[31]

"Shortly before the Settlement Conference, ELK was informed that delivery of two single bucket trucks ($366k and $417k) to ELK will be delayed until 2023. While ELK did

[27] Appendix B p. 34
[28] Appendix B p. 34
[29] Appendix B p. 30
[30] Appendix B p.23
[31] EB-2021-0016 OEB Decision and Rate Order June 20, 2022 p. 14

remove amounts associated with these trucks from revenue requirement, this development did not allow sufficient time for ELK to revise its application to seek approval of an Advanced Capital Module. In light of this, the Parties agree that nothing in this Settlement Proposal shall be interpreted as precluding ELK from bringing a future ICM application for these two single bucket trucks. When filing the ICM application, ELK will follow all the guidelines and rules in effect."

VECC submits the Fleet Vehicles were identified in the Settlement Agreement as not being included in existing rates.

Prudence

The current cost estimate for two ICM bucket trucks is as follows:

Vehicle	Model #	Vintage	Cost Estimate $	Odometer km
Bucket Truck	200-42	2007	$406,191	236,504
Bucket Truck	400-46	2007	$478,716	361,407

To date, E.L.K Energy has paid $257,085 for the Model 200-42 Bucket Truck and $129,639 for the Model 400-46 Bucket Truck. The 200-42 Bucket Truck arrived on January 4, 2024. The 400-46 Bucket Truck is expected in April 2024.

The useful range for bucket trucks is 5-15 years. Both vehicles are over 16 years old and are fully depreciated. E.L.K. indicates that when a vehicle reaches 100,000 km, the vehicle's residual value drops significantly, and maintenance costs begin to increase. As noted in the table above, the odometer reading for both vehicles is significantly above 100,000 km. E.L.K. Energy provided data in its evidence that shows the maintenance costs for both vehicles has increased in recent years.[32] E.L.K. Energy concludes not replacing the trucks will require E.L.K. Energy to continue to spend current and increasing amounts on vehicle maintenance and repairs. In addition, relying on these trucks past their useful lives increases the risk of vehicles being grounded for maintenance and not available when needed.

With respect to other alternatives, E.L.K. Energy considered a leasing model and determined that leasing finance rates were too expensive and this option was determined to be unacceptable. A do nothing option was also deemed unacceptable due to age, mileage, increasing maintenance costs, and reliability considerations.

VECC submits the two bucket trucks are past their end of useful life and E.L.K. Energy has demonstrated the annual maintenance costs are increasing to where replacement is the most cost-effective option, and other options are unacceptable.

[32] Appendix B p.9-10

VECC submits E.L.K. has satisfied the OEB's ICM eligibility criteria for the fleet vehicles and the OEB should approve E.L.K. Energy's ICM request.

b) Six Reclosing Switches

ELK Energy requests a total of six recloser switches for use in two of its six communities, Essex and Harrow. The installation of the switches, at a cost of $485,024, is the first step in E.L.K. Energy's Grid Modernization Roadmap[33] to improve service quality and reliability in response to customer feedback. The purpose of the Roadmap is to bring E.L.K. Energy customers' reliability to a level comparable to that of other customers in the same rate class in Ontario.

E.L.K. indicates it has been experiencing longstanding issues related to Loss of Supply in its service area.[34] The response to VECC interrogatory #8(a) shows the contribution of Loss of Supply to SAIDI and SAIFI for 2022 was 95% and 92%, respectively. E.L.K. anticipates the installation of switches will immediately reduce the number of outages and duration of the outages that result from Loss of Supply incidents for Essex and Harrow. E.L.K. Energy produced a high-level retrospective estimate of the reduction in the number of outage hours mitigated in the communities of Harrow and Essex over the period of 2018 to 2022 assuming the Switches had been installed at the beginning of 2018 which showed a high level estimated 41% reduction in total Loss of Supply hours.[35]

Through the Reliability Commitment Account (RCA), the Settlement Agreement financially incents E.L.K. Energy to maintain or improve its system reliability performance outcomes. E.L.K. Energy has identified drivers underpinning its request for ICM funding for the Switches: (1) improvement to meet customers system reliability priorities; and (2) responsiveness to OEB expectations.[36]

The Switches are not part of an ongoing capital program. E.L.K. Energy views the switches as a discrete project to meet E.L.K.'s commitments in the Settlement Agreement. The Settlement Agreement also included installing, at a minimum, the fault indicators planned in the DSP, and reporting information on momentary outages and how to reduce them in E.L.K.'s next rebasing application. Energy is on track to install the fault indicators.[37] E.L.K. Energy indicates the combination of both fault indicators switches further support E.L.K.'s strategy to reduce momentary outages. The fault indicators and switches minimize outages by isolating damaged sections of line to prevent upstream breaker lock-outs, or to restore power from an available supply when a loss of supply event occurs.

VECC submits E.L.K. Energy has satisfied the Need criterion.

[33] With Entegrus
[34] Appendix B p.12
[35] Appendix B p.24
[36] Appendix B p.14-15
[37] Appendix B p.18

Prudence

The Switches are primary voltage switches capable of interrupting system faults. E.L.K.'s Roadmap includes a switch implementation plan to install 12-16 switches across E.L.K.'s six communities (i.e. Essex, Belle River, Comber, Cottam, Harrow and Kingsville).

The determination to install the first six switches in Essex and Harrow is based on two primary system planning criteria: the deployment of switches is in a service area that has dual supply points and the installation 3 or more Switches to create a switch system to reduce Loss of Supply. Currently, only the communities of Harrow and Essex meet these criteria due to their existing dual supply feeds from the Host Distributor. Each of the four other communities in E.L.K.'s service territory has only one supply point and will require alternative solutions or installation of a second supply point to benefit from the installation of switches.[38] E.L.K. Energy indicates customers will not benefit from installing less than three switches.[39]

E.L.K. Energy considered alternatives but did not identify any asset investment alternatives to the Switches that would meet the requirements set out in its Roadmap, or enable the fulfillment of its commitments in the Settlement Agreement

The expected delivery date for the six reclosing switches is April 2024. E.L.K. Energy has not paid any amounts to date for the six reclosers. [40]

VECC supports the purchase of the six switches given the opportunity to reduce Loss of Supply outages in the towns of Essex and Harrow. VECC submits the ICM Project meets the tests for need, materiality and prudence. The switch project directly relates to the claimed drivers, and the amount requested is unfunded through base rates. VECC submits the OEB should approve the ICM funding request.

ICM Rate Riders

E.L.K. has proposed fixed and variable ICM rate riders covering a three-year period (until next rebasing in 2027, effective May 1, 2024 until April 30, 2027. VECC supports E.L.K. Energy's calculation of the ICM rate riders.

[38] Appendix B p.20
[39] Appendix B p.23
[40] VECC #8(c) & (d)