

E.L.K. Energy Inc.

**Application for electricity distribution rates beginning
May 1, 2024**

**DECISION ON CONFIDENTIALITY
February 27, 2024**

E.L.K. Energy Inc. (E.L.K. Energy) filed an incentive rate-setting mechanism 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 its electricity distribution rates to be effective May 1, 2024.

On January 11, 2024, E.L.K. Energy filed its interrogatory responses and requested confidential treatment for the following material¹, pursuant to the OEB's *Practice Direction on Confidential Filings* (Practice Direction)² and the OEB's *Rules of Practice and Procedure* (Rules):³

1. VECC-3(a) - sections of the Emergency Preparedness Plan
2. VECC-3(a) - Appendix 1, 2 and 3 of the Emergency Preparedness Plan

In its initial response, E.L.K. Energy requested confidentiality for the entirety of the Emergency Preparedness Plan in response to interrogatory VECC-3(a). E.L.K. Energy stated that the document contains personal information and information that pertains to public security, specifically it provides a comprehensive listing of names and locations of key infrastructure and facilities in and around the E.L.K. Energy service area. E.L.K. Energy submitted that disclosure of the information could compromise public safety and that the probative value of placing the Emergency Preparedness Plan in the public domain does not outweigh the potential risks to public health and safety.

¹ [Cover letter and Interrogatory Responses](#), EB-2023-0013, filed January 11, 2024

² Ontario Energy Board, Practice Direction on Confidential Filings, Revised February 17, 2021

³ Ontario Energy Board, Rules of Practice and Procedure, Revised July 30, 2021

OEB staff opposed the confidentiality request, with the exception of any redactions for personal information.⁴ OEB staff also objected to E.L.K. Energy's request to withhold the Emergency Preparedness Plan, in its entirety, from the public record.⁵ OEB staff indicated that Emergency Response Plans/Power Restoration Plans had been filed on the public record in a number of recent proceedings. OEB staff further stated that E.L.K. Energy had not explained how its Emergency Preparedness Plan differed from those other documents such that the entirety of its Plan should be confidential. OEB staff argued that if there were specific, limited, excerpts of the Emergency Preparedness Plan that do raise a public safety concern, E.L.K. Energy should identify those as part of its reply.

OEB staff was the only party to provide submissions on the confidentiality request.

In its reply to OEB staff submission, E.L.K. Energy withdrew its request to have the entire Emergency Preparedness Plan be held in confidence and instead identified specific parts of document that should remain redacted. E.L.K. Energy also stated that Appendices 1, 2, and 3 of the response to interrogatory VECC-3(a) should be treated as confidential, failing which E.L.K. Energy requests the information be withdrawn, as it contains information that is non-responsive to the interrogatory in question and is not relevant to the matters at issue in this proceeding.

E.L.K. Energy filed both a non-confidential redacted version of its interrogatory responses for the public record and a confidential unredacted version for the OEB's review.

Findings

IR VECC-3(a): Personal Information

The OEB notes that E.L.K. Energy has redacted the contact information contained in pages 7-9 of the Emergency Preparedness Plan. The OEB does not take issue with those redactions given that home phone numbers and personal cell phone numbers would qualify as "personal information" as defined in section 2(1) of FIPPA. Moreover, even if the cell phone numbers were not for personal devices, that information is not relevant to this proceeding. The contact information on these pages shall remain redacted and should not be provided parties to who would otherwise be allowed to have access to confidential information in accordance with section 6 of the Practice Direction.

⁴ [Staff Submission on Confidentiality](#), EB-2023-0013, filed January 17, 2024

⁵ *Ibid.*

IR VECC-3(a): Sensitive Infrastructure Information

The OEB approves this confidentiality request. The OEB finds that the specific information regarding infrastructure within E.L.K. Energy's service area, contained in pages 10-16 of the Emergency Preparedness Plan, could affect the security of external parties, and should remain redacted.

IR VECC-3(a): Appendices 1, 2, and 3

While E.L.K. Energy requested confidential treatment for Appendix 1, 2, and 3 of the Emergency Preparedness Plan, the OEB finds that this information is not necessary for the OEB's determination of issues in this proceeding and will be treated as "confidential-not relevant". The OEB expects that only relevant information will be filed in a proceeding as indicated in the Practice Direction. These Appendices should not be provided to parties who would otherwise be allowed to have access to confidential information in accordance with section 6 of the Practice Direction.

DATED at Toronto, **February 27, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar