



E.L.K. Energy Inc.

**Application for electricity distribution rates and other
charges effective May 1, 2025**

**PROCEDURAL ORDER NO. 4
May 16, 2025**

E.L.K. Energy Inc. (E.L.K. Energy) filed an incentive rate-setting mechanism application with the Ontario Energy Board (OEB) on October 28, 2024, under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act), seeking approval for changes to its electricity distribution rates to be effective May 1, 2025.

Among other things, E.L.K. Energy seeks an order from the OEB permitting it to dispose of the amounts recorded in Accounts 1588 and 1589. Accounts 1588 and 1589 include significant credit amounts totaling approximately \$3 million related to the cost of 28 MWh of electricity that Hydro One Networks Inc (Hydro One) previously supplied to E.L.K. Energy that has not been billed to E.L.K. Energy. E.L.K. Energy is proposing to refund these amounts to its customers as part of the disposition of Accounts 1588 and 1589 based on its understanding that Hydro One will not issue a billing adjustment or revised invoice to E.L.K. Energy for this unbilled electricity.

In supplemental interrogatory question Staff-9b, E.L.K. Energy was asked to provide written confirmation that Hydro One does not intend to issue a billing adjustment or revised invoice to E.L.K. Energy. In its response, E.L.K. Energy advised that it does not have written confirmation from Hydro One. E.L.K. Energy further indicated that it had written to Hydro One seeking such confirmation but had not received a response to date. E.L.K. Energy stated that the response from Hydro One will be filed once it is received.

Request to Suspend Submissions Timeline

In Procedural Order No. 3, the OEB directed OEB staff and intervenors to file their submissions in this matter by May 16, 2025. The OEB also established the deadline for the filing of E.L.K. Energy's reply submission.

By letter dated May 13, 2025, OEB staff asked the OEB to suspend the deadline for OEB staff and intervenor submissions until such time that E.L.K. Energy files a full response to supplementary interrogatory Staff-9b. OEB staff raised concerns about

making submissions on the proposed disposition of Accounts 1588 and 1589 without knowing whether Hydro One will seek reimbursement of approximately \$3 million in unbilled electricity. As a result, OEB staff asked that the deadline for OEB staff and intervenor submissions be suspended until a full response to supplementary interrogatory Staff-9b is filed with the OEB.

On May 14, 2025, E.L.K. Energy filed a response objecting to OEB staff's request. E.L.K. Energy advised that it has attempted, on several occasions, to obtain a response from Hydro One on this issue without success. E.L.K. Energy argued that OEB staff cannot use the interrogatory process to compel third parties to answer interrogatories by holding the proceeding schedule hostage. E.L.K. Energy further maintained that OEB staff can address this issue in their submission by filing arguments in the alternative.

On May 14, 2025, the School Energy Coalition (SEC) filed correspondence agreeing with OEB Staff that a response from Hydro One is important information as it relates to the requested relief in the application. SEC, however, acknowledged that there are limits to what E.L.K. Energy can do to compel a response from Hydro One and stated that the OEB has authority under section 21(1) of the OEB Act to require Hydro One to respond.

On May 15, 2025, the Vulnerable Energy Consumers Coalition filed correspondence agreeing with the views expressed by SEC.

Findings

The OEB is suspending procedural steps for 2 weeks. While acknowledging E.L.K. Energy's concern about this proceeding being held up indefinitely, the OEB believes that a suspension of 2 weeks is reasonable in the circumstances, especially given that E.L.K. Energy's most recent request to Hydro One related to supplementary interrogatory Staff-9b was only sent on May 2, 2025.

From a review of the record, it is clear that evidentiary gaps remain with respect to the unbilled electricity issue. This limited 2-week suspension provides E.L.K. Energy an opportunity to attempt to obtain more information from Hydro One. The OEB is also directing OEB staff to forward its May 13, 2025 letter, along with a copy of this Procedural Order No. 4, to Hydro One. Hydro One is not an intervenor and should be informed formally of OEB staff's concerns and what is transpiring in this proceeding.

Ultimately, the OEB will have to consider the proposals before it in this application based on the available evidence. Parties need to be prepared to provide submissions that consider the proposal to reimburse customers with an approximately \$3 million credit based on the information available at the time, even if E.L.K. Energy is unable to

provide a full response to supplemental interrogatory Staff-9b within this 2-week suspension.

Finally, with respect to SEC's observation about section 21(1) of the OEB Act, the OEB is not prepared to order Hydro One to do anything during this 2-week suspension period. Rather it is providing the opportunity for E.L.K. Energy to supplement the evidence in support of its proposals.

The OEB expects to issue a further procedural order following the 2-week suspension of procedural steps.

The OEB is making provision for the following related to this proceeding. Further procedural orders may be issued by the OEB.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The procedural deadlines set out in paragraphs 3, and 4 of Procedural Order No. 3 are cancelled.
2. E.L.K. Energy shall file any information that it receives from Hydro One with respect to the unbilled electricity issue by **May 30, 2025**.
3. OEB staff shall send a copy of its May 13, 2025 letter and this Procedural Order No. 4 to Hydro One as soon as practicable.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's [Rules of Practice and Procedure](#).

Please quote file number, **EB-2024-0015** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the [OEB's online filing portal](#).

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the [Regulatory Electronic Submission System \(RESS\) Document Guidelines](#) found at the [File documents online page](#) on the OEB's website.

- Parties are encouraged to use RESS. Those who have not yet [set up an account](#), or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.
- Cost claims are filed through the OEB's online filing portal. Please visit the [File documents online page](#) of the OEB's website for more information. All participants shall download a copy of their submitted cost claim and serve it on all required parties as per the [Practice Direction on Cost Awards](#).

All communications should be directed to the attention of the Registrar and be received by end of business, 4:45 p.m., on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Harshleen Kaur at harshleen.kaur@oeb.ca and OEB Counsel, Lawren Murray at lawren.murray@oeb.ca.

Email: registrar@oeb.ca

Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **May 16, 2025**

ONTARIO ENERGY BOARD

Ritchie Murray
Acting Registrar