Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

July 10, 2025

Ritchie Murray
Acting Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Ritchie Murray:

Re: Ontario Energy Board (OEB) Staff Submission
E.L.K. Energy Inc. (E.L.K. Energy)
2025 Distribution Rate Application
OEB File Number: EB-2024-0015

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 5. This document is also being forwarded to E.L.K. Energy and intervenors.

Yours truly,

Harshleen Kaur
Digitally signed by Harshleen Kaur
Date: 2025.07.10 14:33:08 -04'00'

Harshleen Kaur
Advisor, Incentive Rate-setting

Encl.

cc: All parties in EB-2024-0015

Ontario

ONTARIO ENERGY BOARD

OEB Staff Submission

E.L.K. Energy Inc.

Application for 2025 Rates

EB-2024-0015

July 10, 2025

Introduction

E.L.K. Energy Inc. (E.L.K. Energy) filed an application dated October 28, 2024, with the Ontario Energy Board (OEB) under section 78 of the *Ontario Energy Board Act, 1998*, seeking approval for changes to its electricity distribution rates to be effective May 1, 2025. E.L.K. Energy is also requesting disposition of its balances from 2016 to 2023 in a series of Deferral and Variance Accounts (DVA) referred to as Group 1 accounts.

In accordance with the scope established by the OEB in Procedural Order No. 5, dated June 26, 2025, OEB staff's submission addresses E.L.K. Energy's Price Cap Incentive Rate-setting (IR) adjustment, updated Retail Transmission Service Rates (RTSRs), Disposition of Group 1 DVA balances (excluding Accounts 1588 and 1589), and the request for an effective date for rates of May 1, 2025.

Consistent with Chapter 3 of the Filing Requirements for Electricity Distribution Rate Applications, E.L.K. Energy applied the Price Cap IR adjustment factor to adjust the monthly service charge and distribution volumetric rate during the incentive rate-setting years. The annual adjustment follows an OEB-approved formula that includes components for inflation and the OEB's expectations of efficiency and productivity gains. The components in the formula are approved by the OEB annually. The formula prescribes a rate adjustment equal to the inflation factor minus the distributor's X-factor (which is the sum of the productivity factor and the stretch factor).[1]

An inflation factor of 3.60% applies to all incentive rate-setting mechanism (IRM) applications for the 2025 rate year.[2] The stretch factor assigned to E.L.K. Energy is 0.0%,[3] resulting in a rate adjustment of 3.60% based on the Price Cap adjustment formula. OEB staff has no concerns with E.L.K. Energy's proposed price cap adjustment.

OEB staff is of the view that, instead of May 1, 2025, E.L.K. Energy's rates should become effective the date they are implemented. OEB staff notes that E.L.K. Energy was delayed in filing its application[4], requested additional time to respond to

[1] Chapter 3 – Filing Requirements for Electricity Distribution Rate Applications, p. 6
[2] OEB Letter, 2025 Inflation Parameters, issued June 20, 2024.
[3] Empirical Research in Support of Incentive Rate-Setting: 2023 Benchmarking Update, Report to the Ontario Energy Board, July 2024, p. 23, Table 5.
[4] E.L.K. Energy was scheduled to file on October 9, 2024, but filed the application on October 28, 2024 (OEB Letter to Delay in Filing, October 8, 2024)

interrogatories[5], requested an extension to filing the settlement proposal[6], requested additional time to respond to supplemental interrogatories[7], and requested that the application be placed in abeyance[8] to investigate matters regarding Accounts 1588 and 1589 balances. An update on E.L.K. Energy's investigation of Accounts 1588 and 1589 balances is scheduled to be provided on (or before) July 31, 2025 and could result in additional process and time. As a result, these delays have resulted in a significant discrepancy between the as-filed requested effective date and the expected actual effective date. OEB staff, therefore, submits that E.L.K. Energy's rates should become effective the date they are implemented.

E.L.K. Energy is requesting approval to adjust the RTSRs that it charges its customers in accordance with the Uniform Transmission Rates (UTRs). OEB staff has no concerns with E.L.K. Energy's requested adjustments to its RTSRs.

In this document, OEB staff makes detailed submissions on the following:

- Disposition of Group 1 DVAs, Excluding Accounts 1588 and 1589

Disposition of Group 1 DVAs (Excluding Accounts 1588 and 1589)

E.L.K. Energy is requesting the disposition of the balances in its Group 1 DVAs, excluding Accounts 1588 and 1589, as of December 31, 2023. The total requested disposition balance amounts to a debit of $899,676, inclusive of interest projected to April 30, 2025. This amount represents a total claim of $0.0038/kWh, pertains to variances accumulated during the 2021 to 2023 period, and exceeds the OEB's $0.001/kWh threshold for disposition.

The Group 1 DVAs are proposed to be disposed of on a final basis over 48 months to support E.L.K. Energy's operational cash flow.[9] E.L.K. Energy noted that a 48-month disposition period is requested to support its operational cash flow and continue to fund modernization investments. The utility has entered into banking arrangements for bridge

[5] E.L.K. Energy requested an extension from January 22, 2025 to January 27, 2025 (OEB Letter Responding to Extension Request, January 22, 2025)
[6] E.L.K. Energy requested an extension from February 20, 2025 to March 13, 2025 (OEB Letter Responding to Settlement Proposal Extension, February 25, 2025)
[7] E.L.K. Energy requested an extension from April 30, 2025 to May 2, 2025 (Procedural Order No. 3, May 2, 2025)
[8] OEB Letter Responding to Abeyance Request, June 3, 2025. The OEB placed the application in abeyance as of May 13, 2025 then bifurcated the proceeding on June 26, 2025 in issuing Procedural Order No. 5.
[9] Manager's Summary, p. 30

financing as its stand-alone financial position did not support the total debt amount, and it was already in breach of its debt covenants.[10]

The OEB most recently approved the disposition of E.L.K. Energy's Group 1 DVA balances (excluding Accounts 1588 and 1589) as of December 31, 2020, as part of E.L.K. Energy's 2022 Cost of Service proceeding.[11]

In the OEB's Decision and Order on E.L.K. Energy's 2022 Cost of Service application, E.L.K. Energy agreed to engage an external auditor to review balances in Accounts 1588 and 1589 for the 2016-2021 period and make best efforts to dispose of balances in both accounts by the 2023 or 2024 IRM application.

In its 2023 IRM proceeding,[12] the OEB accepted E.L.K. Energy's request to defer the disposition of the balances in Group 1 DVAs to the 2024 IRM application.

In its decision on the 2024 IRM proceeding,[13] the OEB approved E.L.K. Energy's request to further defer the disposition of all Group 1 DVA balances to complete the external audit of Accounts 1588 and 1589. Additionally, the OEB directed E.L.K. Energy to dispose of all of its Group 1 DVA balances in the utility's next rate application.

In this application,[14] E.L.K. Energy confirmed that the external audit of Accounts 1588 and 1589 for the years 2016-2023 has been completed. E.L.K. Energy further confirmed that its internal review team also reconciled transactions from 2021 to 2023 for Accounts 1550, 1551, 1580, 1584 and 1586.[15]

On June 16, 2025, E.L.K. Energy filed a letter[16] with the OEB proposing the bifurcation of this proceeding to separate Accounts 1588 and 1589, as it remains unable to reconcile the discrepancies in Accounts 1588 and 1589 related to the cost of power underbilling, which was previously assumed to be attributable to Hydro One Networks Inc.[17] E.L.K. Energy stated that it has been in contact with the Independent Electricity System Operator for assistance in resolving the issue and has committed to provide the OEB with an update on this matter on, or before, July 31, 2025.

[10] *Ibid.*
[11] EB-2021-0016, Settlement Proposal, Table 4.2A, Decision and Rate Order, June 30, 2022
[12] EB-2022-0023, Decision and Rate Order, p. 8, March 23, 2023
[13] EB-2023-0013, Decision and Rate Order, p. 8, March 21, 2024
[14] Manager's Summary, p. 14
[15] Manager's Summary, p. 19
[16] E.L.K. Energy Letter, June 16, 2025
[17] Interrogatory Responses, Supplemental Staff - 9b, May 2, 2025

Multiple Updates from Subsequent Events During the Proceeding

In response to interrogatory questions,[18] E.L.K. Energy identified a series of corrections required to the originally proposed disposition balances of Group 1 DVAs. One of the subsequent events that impacted the balances is related to Embedded Distributor (ED) billing. E.L.K. Energy stated that the invoice issued to its ED customer on October 8, 2024, prior to the submission of its 2025 IRM application, for unbilled costs incurred between 2021 and 2023 has been revised to reflect a cost netting basis. This revision is consistent with E.L.K. Energy's historical practice for the costs in question. E.L.K. Energy further stated that implementing the historical cost netting approach results in minor revisions to the majority of the Group 1 DVA balances sought for disposition in this proceeding. The other subsequent event correction was related to revised invoices received by E.L.K. Energy from its host distributor after the submission of its 2025 IRM application.

In its response to supplemental interrogatory questions,[19] E.L.K. Energy identified additional adjustments made to Accounts 1550, 1551, 1580, 1584 and 1586 to correct mapping errors and billing updates regarding its ED customer. E.L.K. Energy provided the following table (Table 1) summarizing the changes made to the originally proposed balances for these Group 1 DVAs.

Table 1: Summary of Changes Made to the Originally Proposed Disposition Balances

Account	Last Approved Balance EB-2021-0016	RRR Balance 12/31/2021	A. Proposed Balance 12/31/2023	Principal Adjustments 12/31/2023	B. New Proposed Balance 12/31/2023 due to Host Distributor Rebill, Accounting Adjs & New LTLT sales for Host Distributor	Adjusted Principal Adjustments 12/31/2023	C. New Proposed Balance 12/31/2023 due to Additional Changes Since IRR	Adjusted Principal Adjustments 12/31/2023	C-A: Changes Made to the Originally Proposed Balances	Total Impact of Adjustments since October 2024 Proposed Balance (From Table 6)
1550	$ 528,099	$ 303,652	$ 1,130,428	$ 882,134	$ 1,123,528	$ 875,235	$ 1,102,392	$ 910,171	$ (28,036)	$ (28,036)
1551	$ (2,534)	$ (76,466)	$ (68,747)	$ 4,303	$ (69,222)	$ 3,829	$ (68,803)	$ 4,358	$ (55)	$ (55)
1580 (WMS)	$ (129,788)	$ 583,040	$ 416,045	$ (163,041)	$ 453,467	$ (125,619)	$ 537,591	$ (284,587)	$ 121,546	$ 121,546
1580 (CBDR)	$ (29,711)	$ (33,114)	$ 41,719	$ 74,169	$ 4,783	$ 37,234	$ 4,783	$ 111,105	$ (36,936)	$ (36,935)
1584	$ (170,422)	$ (314,632)	$ (381,874)	$ (77,468)	$ (388,311)	$ (83,905)	$ (368,426)	$ (90,916)	$ 13,448	$ 13,448
1586	$ 366,584	$ (121,982)	$ (518,735)	$ (399,601)	$ (499,602)	$ (380,468)	$ (393,307)	$ (525,033)	$ 125,428	$ 125,431

Correction for Errors in Account 1550 after Final Disposition

E.L.K. Energy stated that its internal review team identified considerable amounts related to Low Voltage (LV) purchases from the host distributor that were erroneously recorded as wholesale power purchases during the period of 2016 through 2020. This error resulted in a total amount of $321,388 in LV purchases erroneously recorded into Account 1588 instead of Account 1550 during the period. Given that Account 1550 was approved for final disposition in its 2022 Cost of Service proceeding for the 2020

[18] Interrogatory Responses, pp.1-8, January 27, 2025
[19] Interrogatory Responses, Supplemental Staff -7, May 2, 2025

balance, E.L.K. Energy proposed to seek the OEB's approval to retroactively adjust the previously final disposed balance. E.L.K. Energy further stated that the offset credit entry of $321,388 is included in Account 1588 as part of the reconstructed audited balance.[20]

In its response to interrogatory questions,[21] E.L.K. Energy provided its comments regarding rate retroactivity issues and the four factors outlined in the OEB letter issued in October 2019 regarding rate retroactivity.[22] Those comments are summarized as below:

- Whether the error was within the control of the distributor: E.L.K. Energy stated that it was not within E.L.K. Energy's control to rectify the Account 1550 errors identified pre-2021 as the audit of Accounts 1588 and 1589 presented in this application was not completed at the time of Account 1550 final disposition.

- The frequency with which the distributor has made the same error: E.L.K. Energy stated the same error recording LV charges into incorrect accounts was made before. However, the issue has been and is being addressed by the utility.

- Failure to follow guidance provided by the OEB: The LV charges error is inconsistent with the OEB Accounting Guidance.

- The degree to which other distributors are making similar errors: E.L.K. Energy was not aware of any recent instance in which other distributors made similar errors. However, the utility noted that it frequently encounters challenges finalizing and disposing of balances in Accounts 1588 and 1589.

In its response to supplemental interrogatory questions,[23] E.L.K. Energy stated that, upon further review of the reconciling entries, it identified that its description of the error related to LV purchases during the period from 2016 to 2020 provided in the original application and interrogatory responses was incorrect. The proposed retroactive adjustment consists of a credit of $321,388 to Account 1550 with an offsetting debit of $59,645 to Account 1588, and a debit of $321,388 to Account 1589, as both commodity and Global Adjustment (GA) amounts had been incorrectly booked as LV charges. E.L.K. Energy confirmed that the correct LV charge reclassification is included in the total disposition balances for Accounts 1550, 1588 and 1589 that are requested in this

[20] Manager's Summary, p. 21
[21] Interrogatory Responses, Staff -14 c), January 27, 2025
[22] Letter re: Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition (October 31, 2019) (OEB Guidance Letter).
[23] Interrogatory Responses, Supplemental Staff-6, May 2, 2025

proceeding. Furthermore, E.L.K. Energy stated that the adjustments made to Accounts 1588 and 1589 are part of the reconstructed and audited balances by KPMG.

Submission on the Disposition of Group 1 DVAs, Excluding Accounts 1588 and 1589

OEB staff submits that besides Accounts 1588 and 1589, which are subject to a later process of this proceeding, Account 1550 should also be excluded from E.L.K. Energy's requested disposition of its December 31, 2023 Group 1 DVAs. OEB staff has reviewed the proposed disposition balances and the supporting evidence substantiating these balances of Group 1 DVAs excluding the above three accounts. OEB staff notes that the proposed Group 1 DVA balances excluding these three accounts, which is a credit of $351,941, reflect reconstructed balances based on the comprehensive internal review. This amount represents a total credit claim of $0.0015/kWh.

OEB staff does not take issue with E.L.K. Energy's request for final disposition of Accounts 1551, 1580, 1584, 1586, 1595 (2020) and 1595 (2021). OEB staff does not, however, support the disposition of Account 1550 at this stage, as the outcome of the ongoing investigation in Accounts 1588 and 1589 may impact the proposed retroactive adjustments to Account 1550. Rather, OEB staff submits that disposition of Account 1550 should be decided at the same time as when the OEB decides on Accounts 1588 and 1589 due to the uncertainty related to the quantification of the proposed retroactive adjustments in Account 1550. A further detailed submission regarding Account 1550, including the proposed retroactive adjustments to this account, is provided in the next section of this submission.

OEB staff accepts the subsequent event adjustments made during the proceeding to the originally proposed balances for Accounts 1550, 1551, 1580, 1584 and 1586. OEB staff notes that these adjustments are necessary to correct accounting record errors and to reflect the appropriate billing methodology for the ED customer. Furthermore, OEB staff notes that the adjustments only affect the undisposed balances of these Group 1 DVAs.

OEB staff believes that the originally proposed 48-month disposition period should be shortened as this disposition will only relate to the Group 1 DVAs, excluding Accounts 1550, 1588 and 1589. The disposition balance for these Group 1 DVAs is a credit amount of $351,941. This credit disposition balance represents 6% of the total credit disposition of $6,175,220 as proposed by E.L.K. Energy.[24] OEB staff suggests that E.L.K. Energy propose a reasonable disposition period in its reply submission to ensure that its ratepayers have early access to the funds without materially impacting E.L.K.

[24] 2025 IRM Rate Generator Model, May 2, 2025

Energy's operational cash flow.

In its response to interrogatory questions, E.L.K. Energy confirmed that it has only one Class A customer beginning July 1, 2017, and this customer has not subsequently transitioned in any year between Class A and B.[25] However, OEB staff notes that there is no Class A customer or any Class A consumption reported in E.L.K. Energy's updated 2025 Rate Generator Model.[26] OEB staff submits that E.L.K. Energy should file an updated 2025 Rate Generator Model with the appropriate information for the Class A customer as part of its reply submission.

<u>Account 1550</u>

OEB staff has reviewed the proposed disposition balance and the supporting evidence substantiating the balance of Account 1550. OEB staff has no concerns with the balance, except for the proposed retroactive adjustments for which the other side of the adjustments are included in Accounts 1588 and 1589. OEB staff submits that the disposition of Account 1550 should be considered in conjunction with Accounts 1588 and 1589, given the interrelated nature of the proposed retroactive adjustments, which are reflected in the balances of these accounts. OEB staff cannot foreclose the possibility that the results of the ongoing investigation into Accounts 1588 and 1589 may have implications for the requested disposition of Account 1550.

With respect to the four factors outlined in the October 31, 2019 guidance letter, E.L.K. Energy argued that the error was beyond its control. It also confirmed that it was not the first time that it had made an error of this kind. OEB staff notes that these comments were based on E.L.K. Energy's initial view that the error was a misclassification of LV charges into other accounts.

That view has now changed. E.L.K. Energy clarified, in response to a supplemental interrogatory question,[27] that the error actually involved misclassifying commodity and GA amounts into Account 1550. However, in those same supplemental interrogatories, E.L.K. Energy did not provide updated comments on the four factors. OEB staff recommends that E.L.K. Energy provide updated comments on the four factors in its reply submission or confirm that the original comments are still applicable.

OEB staff also notes that although the reclassification of incorrectly recorded commodity and GA amounts from Account 1550 to Accounts 1588 and 1589 net off at the total disposition balance level, the net impact to the ratepayers is not nil. This is because the misallocation between Account 1550 and Accounts 1588/1589 affects different groups

[25] Interrogatory Responses, Staff -2 a), January 27, 2025
[26] 2025 IRM Rate Generator Model, Tab 6, Table 3b, May 2, 2025
[27] *Ibid.*, Footnote 20

of customers through different rate riders – namely, the DVA rate rider and the GA rate rider. Given that the balances in Accounts 1588 and 1589 have not been disposed of on a final basis, the credit impact of the retroactive adjustment to Account 1550 represents a refund to ratepayers through the DVA rate rider. Additionally, this refund amount may be impacted by the outcome of E.L.K. Energy's ongoing investigation into the discrepancies in the balances in Accounts 1588 and 1589 for the years 2017 to 2019.

Under these circumstances, given the uncertainty in the proposed retroactive adjustment amounts, OEB staff believes that the proposed retroactive adjustment should be considered at the same time as Accounts 1588 and 1589 to ensure an accurate refund to ratepayers. Therefore, OEB staff submits that the disposition of Account 1550 should be decided along with Accounts 1588 and 1589.

~All of which is respectfully submitted~