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

PARTIAL DECISION AND ORDER – PHASE 1

EB-2024-0015

E.L.K. Energy Inc.

Application for rates and other charges to be effective May 1, 2025

BEFORE: **Allison Duff**
Presiding Commissioner

Fred Cass
Commissioner

August 28, 2025

1. OVERVIEW

E.L.K. Energy Inc. (E.L.K. Energy) filed an application with the Ontario Energy Board (OEB) to change the rates that it charges to distribute electricity to its customers, effective May 1, 2025. The application was based on the OEB's Price Cap Incentive Rate-setting (Price Cap IR) option. E.L.K. Energy also requested disposition of its balances from 2016 to 2023 in a deferral and variance account (DVA) referred to as a Group 1 account and a single Group 2 account over a four-year period.

In Procedural Order No. 5, the OEB bifurcated the hearing of the application into two parts. This Partial Decision and Order addresses the Price Cap IR incentive rate-setting mechanism (IRM), disposition of Group 1 DVA balances – excluding Accounts 1550, 1588, and 1589 – disposition of a Group 2 DVA balance and the settlement proposal (Phase 1).

E.L.K. Energy filed a letter on August 8, 2025 indicating that it has completed its investigation regarding the balances in Accounts 1588 and 1589, and by extension Account 1550. The OEB will establish procedural steps to hear these matters in order to issue a subsequent OEB decision (Phase 2).

The OEB approves E.L.K. Energy's Price Cap IR proposals and the settlement proposal submitted by E.L.K. Energy, the School Energy Coalition, and Vulnerable Energy Consumers Coalition (collectively, the Parties). The approved settlement proposal revises certain aspects of the OEB's approvals in E.L.K. Energy's 2022 cost of service[1] proceeding.

[1] EB-2021-0016

2. CONTEXT AND PROCESS

E.L.K. Energy filed its application on October 28, 2024 under section 78 of the *Ontario Energy Board Act, 1998* and in accordance with Chapter 3 (Incentive Rate-Setting Applications) of the OEB's *Filing Requirements for Electricity Distribution Rate Applications*. The application was based on the Price Cap IR option, with a five-year term.

The Price Cap IR option is one of three IRMs used by the OEB.[2] It involves the setting of rates through a cost of service application in the first year and mechanistic price cap adjustments which may be approved through IRM applications in each of the ensuing adjustment years.

The OEB follows a standardized and streamlined process for processing IRM applications filed under Price Cap IR. In each adjustment year of a Price Cap IR term, the OEB prepares a Rate Generator Model that includes, as a placeholder, information from the distributor's past proceedings and annual reporting requirements. A distributor then reviews, completes, and includes the model with its application, and may update the model during the proceeding to make any necessary corrections or to incorporate new rate-setting parameters as they become available.

E.L.K. Energy serves approximately 12,000 mostly residential and commercial electricity customers in the Towns of Essex, Lakeshore and Kingsville.

Notice of the application was issued on November 19, 2024. The School Energy Coalition (SEC), Vulnerable Energy Consumers Coalition (VECC) and the Independent Electricity System Operator (IESO) requested intervenor status. SEC and VECC also requested cost eligibility. The OEB approved SEC, VECC, and IESO as intervenors, and approved cost eligibility for SEC and VECC.

In Procedural Order No. 1, the OEB provided for written interrogatories and scheduled a half-day settlement conference, at the request of E.L.K. Energy. The settlement conference was to address two unresolved issues from E.L.K. Energy's 2022 cost of service[3] application regarding a forgone revenue rate rider residual amount and 2015 non-RPP GA rate rider. A settlement proposal, reflecting a full settlement on the two unresolved issues, was filed on March 13, 2025.

[2] Each of these options is explained in the OEB's *Handbook for Utility Rate Applications*.
[3] EB-2021-0016

In Procedural Order No. 2, the OEB allowed for supplemental interrogatories on the disposition of Group 1 balances from 2016 to 2023 and established a process for written submissions.

On April 25, 2025, the OEB issued an order declaring E.L.K. Energy's Tariff of Rates and Charges interim as of May 1, 2025.

When filing its supplemental interrogatory responses, E.L.K. Energy advised that it was unable to file a response to supplemental interrogatory Staff-9(b). E.L.K. Energy explained that it had not received certain information from Hydro One Networks Inc. (Hydro One) yet committed to filing the response with the OEB once the information was received.

By letter dated May 13, 2025, OEB staff requested that the OEB suspend the submission dates in Procedural Order No. 2, citing the absence of a complete response to supplemental interrogatory Staff-9(b) and uncertainty regarding a potential $3 million reimbursement for unbilled electricity. In response, SEC and VECC supported OEB staff's request and emphasized the relevance of Hydro One's response to E.L.K. Energy's proposals. E.L.K. Energy submitted that OEB staff should not use an interrogatory process to compel third parties to answer interrogatories.

In Procedural Order No. 4, issued on May 16, 2025, the OEB suspended the procedural steps for two weeks and directed OEB staff to forward its May 13, 2025 letter, along with a copy of Procedural Order No. 4, to Hydro One to ensure it was informed as Hydro One is not an intervenor in this proceeding.

The OEB placed the proceeding in abeyance effective May 16, 2025 after considering the situation, thus providing E.L.K. Energy time to reconcile Accounts 1588 and 1589 and update its evidence.

On June 16, 2025, E.L.K. Energy filed a letter with the OEB proposing to bifurcate the proceeding, to separate out the disposition of Accounts 1588 and 1589, while continuing to adjudicate other matters. Through Procedural Order No. 5, the OEB ended the abeyance period, bifurcated the proceeding and established a process for written submissions on certain proposals included in the application. Written submissions were filed by OEB staff and SEC, and a reply submission was filed by E.L.K. Energy.

Bifurcation of Proceeding

The OEB bifurcated the hearing of issues in this proceeding in Procedural Order No. 5. However, the OEB is revising the scope of the respective phases of the bifurcated proceeding such that this Phase 1 Partial Decision and Order will exclude consideration of Account 1550. Instead, consideration of Account 1550 will be considered in Phase 2. The OEB finds it appropriate to consider Account 1550 balances in Phase 2, in conjunction with Account 1588 and 1589 balances. This revision in the scope of each of the two phases in this proceeding was suggested in submission by OEB staff and supported by the applicant in its reply submission.

The OEB notes that this proceeding was mentioned in the evidence filed in a concurrent OEB proceeding for a Mergers, Acquisitions, Amalgamations and Divestitures application[4] involving Windsor Canada Utilities Ltd. (Buyer) and the Corporation of the Town of Essex (Seller). The Town of Essex currently owns E.L.K. Energy and has entered into an Agreement of Purchase and Sale with Windsor Canada Utilities Ltd.[5]

[4] EB-2025-0172
[5] EB-2025-0172, Application and Evidence, May 13, 2025, Appendix D

3. DECISION OUTLINE

Each of the following issues is addressed in this Partial Decision and Order, together with the OEB's findings.

- Annual Adjustment Mechanism
- Retail Transmission Service Rates
- Disposition of Remaining Group 1 Deferral and Variance Account Balances
- Decision on the Settlement Proposal

Instructions for E.L.K. Energy to file a draft rate order to collect the total forgone revenue over a 12-month period are set out in the final section of this Partial Decision and Order.

This Partial Decision and Order does not address rates and charges approved by the OEB in prior proceedings, such as specific service charges[6] and loss factors, which are out of the scope of an IRM proceeding and for which no further approvals are required to continue to include them on the distributor's Tariff of Rates and Charges.

[6] Certain service charges are subject to annual inflationary adjustments to be determined by the OEB through a generic order. For example, the OEB's Decision and Order in EB-2024-0226, September 26, 2024, established the adjustment for energy retailer service charges, effective January 1, 2025; and the OEB's Decision and Order in EB-2024-0227, issued September 26, 2024, established the 2025 Wireline Pole Attachment Charge, effective January 1, 2025.

4. ANNUAL ADJUSTMENT MECHANISM

E.L.K. Energy applied to change its rates, effective May 1, 2025. The proposed rate change is based on a mechanistic rate adjustment using the OEB-approved **inflation minus X-factor** formula applicable to IRM applications. The adjustment applies to distribution rates (fixed and variable) uniformly across all customer classes.[7]

The components of the Price Cap IR adjustment formula applicable to E.L.K. Energy are set out in the table below. Inserting these components into the formula results in a 3.60% increase to E.L.K. Energy's rates: **3.60% = 3.60% - (0.00% + 0.00%)**.

Table 4.1: Price Cap IR Adjustment Formula

Components		Amount
Inflation factor[8]		3.60%
Less: X-factor	Productivity factor[9]	0.00%
	Stretch factor (0.00% to 0.60%)[10]	0.00%

An inflation factor of 3.60% applies to all IRM applications for the 2025 rate year. The X-factor is the sum of the productivity factor and the stretch factor. It is a productivity offset that varies among different groupings of distributors. Subtracting the X-factor from inflation ensures that rates decline in real, constant-dollar terms, providing distributors with a tangible incentive to improve efficiency or else experience declining net income. The productivity component of the X-factor is based on industry conditions over a historical study period and applies to all IRM applications for the 2025 rate year. The stretch factor component of the X-factor is one of five stretch factor groupings established by the OEB, ranging from 0.00% to 0.60%. The stretch factor assigned to any distributor is based on the distributor's total cost performance as benchmarked against other distributors in Ontario. The stretch factor assigned to E.L.K. Energy is 0.00%, resulting in a rate adjustment of 3.60%.

[7] The adjustment does not apply to the following components of delivery rates: rate riders, rate adders, low voltage service charges, retail transmission service rates, wholesale market service rate, smart metering entity charge, rural or remote electricity rate protection charge, standard supply service – administrative charge, transformation and primary metering allowances, loss factors, specific service charges (other than the Wireline Pole Attachment charge), and microFIT charge.

[8] OEB Letter, 2025 Inflation Parameters, issued June 20, 2024

[9] Report of the Ontario Energy Board – "Rate Setting Parameters and Benchmarking under the Renewed Regulatory Framework for Ontario's Electricity Distributors" EB-2010-0379, December 4, 2013

[10] Report to the Ontario Energy Board – "Empirical Research in Support of Incentive Rate-Setting: 2023 Benchmarking Update", prepared by Pacific Economics Group LLC., August 6, 2024

OEB staff submitted on July 10, 2025, that it had no concerns with E.L.K. Energy's proposed adjustment.

Findings

E.L.K. Energy's request for a 3.60% rate increase is in accordance with the annually updated parameters set by the OEB. The OEB finds that E.L.K. Energy appropriately applied the Price Cap IR formula to adjust its monthly service charge and distribution volumetric rates for the 2025 rate year.

The OEB approves the rate adjustment of 3.60% for 2025, and E.L.K. Energy's new rates shall be effective May 1, 2025 with an implementation date of October 1, 2025. In reaching its decision regarding the effective date of the new rates, the OEB considered the sequence of events in this proceeding. The OEB accepts that the Phase 1 issues could have been addressed prior to May 1, 2025, had the bifurcation of the hearing occurred earlier. The OEB approves the collection of forgone revenues from May 1, 2025 to the implementation date for 2025 rates (October 1, 2025).

5. RETAIL TRANSMISSION SERVICE RATES

In Ontario, some distributors are connected directly to a licensed transmitter, while others may be embedded, or partially embedded, within the distribution system of another licensed distributor. E.L.K. Energy is fully embedded within Hydro One's distribution system.

To recover its cost of transmission services, E.L.K. Energy requests approval to adjust the Retail Transmission Service Rates (RTSRs) that it charges its customers in accordance with the host distributor RTSRs for Hydro One.

OEB staff submitted on July 10, 2025, that it had no concerns with E.L.K. Energy's requested adjustment to its RTSRs.

Findings

E.L.K. Energy's proposed adjustment to its RTSRs is approved. The RTSRs have been adjusted based on the current OEB-approved[11] host-RTSRs for Hydro One.

Host-RTSRs are typically approved annually by the OEB. In the event that the OEB updates the host-RTSRs during E.L.K. Energy's 2025 rate year, any resulting differences (from the prior-approved host-RTSRs) will be captured in Retail Settlement Variance Accounts 1584 (Retail Transmission Network Charge) and 1586 (Retail Transmission Connection Charge).

[11] EB-2024-0032, Rate Order, December 19, 2024

6. DISPOSITION OF REMAINING GROUP 1 DEFERRAL AND VARIANCE ACCOUNT BALANCES

In each year of an IRM term, the OEB will review a distributor's Group 1 DVAs to determine whether those balances should be disposed of. OEB policy states that Group 1 account balances should be disposed of if they exceed, on a net basis (as a debit or credit), a pre-set disposition threshold of $0.001 per kWh, unless a distributor can justify why balances should not be disposed of.[12] If the net balance does not exceed the threshold, a distributor may still request disposition.[13]

The 2023 year-end net balance for E.L.K. Energy's Group 1 accounts eligible for disposition, excluding Accounts 1550, 1588, 1589, inclusive of interest projected to April 30, 2025, is a credit of $351,940, and pertains to variances accumulated during the 2021 to 2023 calendar years. This amount represents a total credit claim of $0.00015 per kWh, which exceeds the disposition threshold.[14]

The OEB 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.[15] In the settlement proposal accepted in the OEB's Decision and Rate Order, E.L.K. Energy agreed to engage an external auditor to review balances in Accounts 1588 and 1589 for the 2016 to 2021 period, and to make best efforts to dispose of balances in both accounts by the 2023 or 2024 IRM application.

In E.L.K. Energy's 2023 and 2024 IRM proceedings, the OEB accepted E.L.K. Energy's request to defer the disposition of Group 1 DVAs balances. Disposition was deferred due to E.L.K. Energy's workforce constraints, need to review the Group 1 DVAs and the on-going external audit of Accounts 1588 and 1589.[16] [17]

In this application, E.L.K. Energy confirmed that the external audit of Accounts 1588 and 1589 for the years 2016 to 2023 had been completed.[18] 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.[19]

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[12] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative" (EDDVAR), EB-2008-0046, July 31, 2009
[13] OEB letter, "Update to the Electricity Distributors' Deferral and Variance Account Review ("EDDVAR Report"), released July 2009 (EB-2008-0046)", issued July 25, 2014
[14] E.L.K. Energy Reply Submission, 2025 IRM Rate Generator Model, July 24, 2025
[15] EB-2021-0016, Settlement Proposal, Table 4.2A, Decision and Rate Order, June 30, 2022
[16] EB-2022-0023, Decision and Rate Order, p. 8, March 23, 2023
[17] EB-2023-0013, Decision and Rate Order, p. 8, March 21, 2024
[18] Manager's Summary, p. 14
[19] Manager's Summary, p. 19

Included in the Group 1 accounts are certain variances related to costs that are paid for by a distributor's customers on different bases, depending on their classification. "Class A" customers, who participate in the Industrial Conservation Initiative, pay for Global Adjustment (GA) charges based on their contribution to the five highest Ontario demand peaks over a 12-month period. "Class B" customers pay for GA charges based on their monthly consumption, either as a standalone charge or embedded in the Regulated Price Plan (RPP).[20] A similar mechanism applies to Class A and Class B customers for Capacity Based Recovery (CBR) charges.[21] The balance in the GA variance account is attributable to non-RPP Class B customers and is disposed of through a separate rate rider. The balance in the CBR Class B variance account is attributable to all Class B customers.

E.L.K. Energy had one Class A customer during the period in which variances accumulated, however, the CBR Class B rate riders calculated rounded to zero at the fourth decimal place in one or more of the rate classes. When this occurs, the entire balance of the CBR Class B variance account is disposed of along with Account 1580 – Wholesale Market Service Charge through the general DVA rate riders.

Multiple Updates from Subsequent Events During the Proceeding

The proposed disposition balance of $899,676 for the Group 1 DVAs, excluding Accounts 1588 and 1589, reflects the following updates made during the proceeding:

- The billing methodology being revised by E.L.K. Energy to reflect a cost netting basis for the invoices issued to its Embedded Distributor customer on October 8, 2024. E.L.K. Energy noted that this revision is consistent with its historical practice for the costs in question, and that implementing the historical cost netting approach results in minor revisions to most of the Group 1 DVA balances proposed for disposition in this proceeding.[22]
- Updates were made to reflect the revised invoices received by E.L.K. Energy from its host distributor after the submission of its 2025 IRM application.[23]
- Additional adjustments were made to Accounts 1550, 1551, 1580, 1584 and 1586 to correct mapping errors and billing updates regarding E.L.K. Energy's Embedded Distributor customer.[24]

[20] For additional details on the Global Adjustment charge, refer to the IESO's website.
[21] All Class B customers (RPP and non-RPP) pay the CBR as a separate charge based on their monthly consumption. For additional details on the CBR for Class A customers, refer to the IESO's website.
[22] Interrogatory Responses, pp. 1-8, January 27, 2025
[23] Interrogatory Responses, Staff-14 c), January 27, 2025
[24] Interrogatory Responses, Supplemental Staff-7, May 2, 2025

Account 1550

E.L.K. Energy's disposition request for the Group 1 DVAs includes a retroactive adjustment request for Account 1550 to correct misclassified commodity and GA amounts during the period of 2016 through 2020. The proposed retroactive adjustment consists of a credit of $321,388 to Account 1550, offset by a debit of $59,645 to Account 1588 and a debit of $321,388 to Account 1589, as both commodity and GA amounts had been incorrectly recorded as Low Voltage (LV) charges.[25]

With respect to the four factors outlined in the OEB letter issued in October 2019 regarding rate retroactivity (OEB Letter),[26] E.L.K. Energy noted that the error was beyond its control and the same misclassification of LV charges into incorrect accounts had occurred previously. The error is inconsistent with the OEB Accounting Guidance, and E.L.K. Energy is not aware of any other distributor that has made similar errors.[27]

OEB staff agreed with E.L.K. Energy's request for final disposition of Accounts 1551, 1580, 1584, 1586, 1595 (2020) and 1595 (2021). However, OEB staff submitted 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 indicated that it cannot foreclose the potential impact that the ongoing investigation into Accounts 1588 and 1589 may have on the requested disposition of Account 1550. Additionally, OEB staff noted that E.L.K. Energy's comments provided for the four factors outlined in the OEB Letter were based on its initial view that the error involved a misclassification of LV charges into other accounts.[28]

OEB staff further submitted 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. OEB staff noted that the proposed Group 1 DVA balances excluding these three accounts, which is a credit of $351,940, reflect reconstructed balances based on the comprehensive internal review. This amount represents a total credit claim of $0.0015/kWh. [29]

SEC submitted that the OEB should not allow the proposed retroactive adjustment in Account 1550. SEC noted that E.L.K. Energy should be held accountable for significant

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[25] Interrogatory Responses, Supplemental Staff-6, May 2, 2025
[26] Letter re: Adjustments to Correct for Errors in Electricity Distributor "Pass-Through" Variance Accounts After Disposition (October 31, 2019) (OEB Guidance Letter).
[27] Interrogatory Responses, Staff-14 c), January 27, 2025
[28] OEB Staff Submission, July 10, 2025
[29] *Ibid.*

past accounting errors given E.L.K. Energy's history of problematic accounting, recordkeeping, and operational practices.[30]

In its reply submission, E.L.K. Energy agreed that Account 1550 should be considered in conjunction with Accounts 1588 and 1589. E.L.K. Energy confirmed that its original comments on the four factors for justifying the retroactive adjustment remain unchanged. E.L.K. Energy also attached an updated 2025 Rate Generator Model to its reply submission to reflect a 12-month disposition period, updates for the Class A customer, and the disposition balance excluding Accounts 1550, 1558, and 1589. E.L.K. Energy further submitted that its request for the retroactive adjustment to Account 1550 should not be rejected by the OEB, as proposed by SEC.[31]

Findings

The OEB approves the following proposals by E.L.K. Energy:

- the revised balances in Accounts 1551, 1580, 1584, 1586 and 1595 (2020) and 1595 (2021)
- the total net credit balance of $351,940 for disposition
- a 12-month disposition period and the rate riders, as updated in the Rate Generator Model filed by E.L.K. Energy in reply submission

The balances proposed for disposition reconcile with the amounts reported as part of the OEB's *Electricity Reporting and Record-Keeping Requirements.*

The derivation of the credit balance of $351,940 is set out in Table 6.1. The OEB approves the disposition of this credit balance as of December 31, 2023, including interest projected to April 30, 2025, for Group 1 accounts, excluding Accounts 1550, 1588, and 1589, on a final basis.

Table 6.1: Group 1 Deferral and Variance Account and Interest Balances

Account Name and Number		Principal Balance ($) A	Interest Balance ($) B	Total Claim ($) C=A+B
Smart Metering Entity Charge Variance Account	1551	(68,803)	(7,421)	(76,224)
RSVA - Wholesale Market Service Charge	1580	537,591	77,513	615,104

[30] School Energy Coalition Submission, July 10, 2025
[31] E.L.K. Energy Reply Submission, July 24, 2025

Variance WMS - Sub-account CBR Class B	1580	4,783	(2,192)	2,592
RSVA - Retail Transmission Network Charge	1584	(368,425)	(37,690)	(406,116)
RSVA - Retail Transmission Connection Charge	1586	(393,307)	(47,287)	(440,594)
Disposition and Recovery/ Refund of Regulatory Balances (2020)	1595	(611)	19,558	18,947
Disposition and Recovery/ Refund of Regulatory Balances (2021)	1595	(57,171)	(8,477)	(65,648)
Total for Group 1 accounts		(345,943)	(5,997)	(351,940)

The balance of each of the Group 1 accounts, excluding Accounts 1550, 1588, and 1589, approved for disposition shall be transferred to the applicable principal and interest carrying charge sub-accounts of Account 1595. Such transfer shall be pursuant to the requirements specified in the *Accounting Procedures Handbook for Electricity Distributors.*[32] The date of the transfer must be the same as the effective date for the associated rates, which is generally the start of the rate year.

The OEB approves these balances to be disposed of through final rate riders, charges, or payments, as calculated in the Rate Generator Model. The final rate riders, charges, and payments, as applicable, will be in effect over a one-year period from October 1, 2025 to September 30, 2026.

[32] Article 220, Account Descriptions, *Accounting Procedures Handbook for Electricity Distributors*, effective January 1, 2012

7. DECISION ON THE SETTLEMENT PROPOSAL

A half-day settlement conference was held on February 5, 2025. The scope of the settlement conference was limited to the issues that related to E.L.K. Energy's 2022 cost of service application. Specifically, E.L.K. Energy identified and sought to correct two issues that were subject to the settlement proposal approved by the OEB in the 2022 cost of service application:

Forgone Revenue Rate Rider Residual Amount

E.L.K. Energy identified a transcription error in the GS>50 kW rate class, as established in the 2022 cost of service Tariff of Rates and Charges. Specifically, the rate rider for the GS>50 kW rate class was erroneously set as a refund of $0.0072 per kWh instead of $0.0072 per kW in the Tariff of Rates and Charges.[33] This error resulted in an over-refund of $430,610 to customers in the GS>50 kW rate class. This over-refund issue was reflected in Account 1508, Sub-Account Revenue Differential Account, as this account was established to track differences in distribution revenue collected under the 2022 interim and final approved rates, for the period of May 1, 2022 up to the implementation date of the new 2022 rates.[34]

The Parties agreed to the recovery of $430,610 for the GS>50 kW rate class only and E.L.K. Energy writing off all other variances for all other rate classes in Account 1508, Sub-account Revenue Differential Account, as they were *de minimis*. Additionally, the Parties agreed to the rate rider for the GS>50 kW rate class of $2.0018 per kW, as specified in Table 1.2 of the settlement proposal.[35]

In its submission on the settlement proposal, OEB staff stated that the methodology to resolve the 2022 cost of service forgone revenue issue was reasonable because the transcription error only occurred on the approved Tariff of Rates and Charges and did not affect the approved balance in Account 1508, Sub-Account Revenue Differential Account. OEB staff also agreed that the variances for all other rate classes (a total debit of $1,474) should be written off, as they were *de minimis*.[36]

2015 Non-Regulated Price Plan (RPP) Global Adjustment (GA) Rate Rider

In its application,[37] E.L.K. Energy identified an error in the allocation of the disposition balance for Account 1589, which was approved in the 2022 cost of service proceeding.

[33] Manager's Summary, p. 24
[34] EB-2021-0016, Decision and Rate Order, June 30, 2022, Appendix E – Accounting Order – Revenue Differential Account
[35] Settlement Proposal, March 13, 2025, p. 7
[36] OEB Staff Submission, April 1, 2025
[37] Manager's Summary, pp. 25-26

Specifically, the Embedded Distributor rate class consumption data was mistakenly included in the allocation of the credit disposition for Account 1589. However, this rate class was billed based on Class B Actual GA rates and did not contribute to the creation of the original balance. Consequently, the original credit amount of $268,995 allocated to the Embedded Distributor rate class was not refunded and remains as a residual credit balance in Account 1595 (2022).

E.L.K. Energy proposed to correct the allocation error by reallocating the Embedded Distributor residual credit amount of $268,995 to the remaining rate classes and disposing of it along with other remaining residual balances to non-RPP customers, effective May 1, 2025. As a result, the total proposed disposition principal balance for the overall residual balance in Account 1595 (2022) is a credit balance of $306,071.

The Parties agreed to the methodology proposed by E.L.K. Energy to resolve the 2022 cost of service GA rider issue. The Parties also accepted E.L.K. Energy's updated interest amount based on the OEB's prescribed interest rates. As outlined in Table 2.1 of the settlement proposal, the total claim amounts to a credit of $344,607, including a credit of $38,536 for carrying charges.[38] The proposed rate riders in Table 2.2 of the settlement proposal are as follows:

Rate Class	Disposition Amount	Class B Non-RPP kWh	$/kWh Rate Rider
Residential	-$13,440	1,415,296	-$0.0095
General Less than 50 Kw	-$9,094	5,619,122	-$0.0016
General 50 to 4,999 Kw	-$312,387	52,508,517	-$0.0059
Unmetered Scattered Load	-$1,947	103,260	-$0.0189
Street Lighting	-$1,217	31,182	-$0.0390
Sentinel Lighting	-$6,522	1,187,658	-$0.0055
Embedded Distributor	-	47,435,811	-
Total	-$344,607	108,300,846	

[38] Settlement Proposal, March 13, 2025, pp. 9-10

OEB staff supported the settlement proposal. OEB staff submitted that the outcomes arising from the OEB's approval of the settlement proposal would reflect the public interest and result in just and reasonable rates for customers.

Findings

The OEB accepts the settlement proposal filed by the Parties. The OEB accepts the settled revised disposition of certain aspects from E.L.K. Energy's 2022 cost of service[39] proceeding. In the 2022 cost of service proceeding, the OEB accepted a settlement proposal filed by the same parties that filed the settlement proposal in the current 2025 IRM proceeding. Specifically, the settled changes to the Forgone Revenue Rate Rider Residual Amount and the 2015 Non-Regulated Price Plan Global Adjustment Rate Rider are approved by the OEB on a final basis.

The OEB appreciates the effort to address these issues realized subsequent to the 2022 settlement proposal and the OEB's decision, namely a transcription error and an allocation error affecting certain customers. The OEB commends the Parties in reaching an agreement for the OEB's consideration.

The OEB acknowledges that the settled amounts and rate riders included interest accrued to April 30, 2025. The OEB has considered the unique circumstances related to the 2022 proceeding, the settlement itself, and the subsequent events in this proceeding and approves the rate riders as specified in the settlement proposal.

[39] EB-2021-0016

8. IMPLEMENTATION

The approved effective date for E.L.K. Energy's new rates is May 1, 2025, with an implementation date of October 1, 2025.

E.L.K. Energy is to file a draft rate order with the OEB reflecting the findings of this Partial Decision and Order. E.L.K. Energy shall also include proposed rate riders to collect the total forgone revenue over a 12-month period. The draft rate order should be accompanied by an updated Rate Generator Model and applicable supporting calculations for the rate riders to clearly identify actual and estimated forgone revenues. The Rate Generator Model should also incorporate the appropriate rate riders as per the settlement proposal, dated March 13, 2025, and should only include disposition of Group 1 accounts, with the exception of Accounts 1550, 1588, and 1589.

9. ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. E.L.K. Energy Inc.'s distribution rates shall be effective May 1, 2025, with an implementation date of October 1, 2025, in accordance with this Partial Decision and Order.

2. The settlement proposal set out in Schedule A is approved.

3. E.L.K. Energy Inc. shall file with the OEB a draft rate order that reflects the findings of this Partial Decision and Order, no later than **September 5, 2025**. E.L.K. Energy Inc. shall also include a proposal to collect the total forgone revenue over a 12-month period as well as any supporting calculations.

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, August, 28, 2025

ONTARIO ENERGY BOARD

Ritchie Murray

Digitally signed by Ritchie Murray
Date: 2025.08.28 13:09:56 -04'00'

Ritchie Murray
Acting Registrar

SCHEDULE A

PARTIAL DECISION AND ORDER – PHASE 1

E.L.K. ENERGY INC.

SETTLEMENT PROPOSAL

EB-2024-0015

AUGUST 28, 2025

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File No. 17001.13

March 13, 2025

BY RESS

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

Dear Ms. Marconi:

Re: E.L.K. Energy Inc.
Application for May 1, 2025 Electricity Distribution Rates
Ontario Energy Board ("OEB") File No. EB-2024-0015 ("Proceeding")

Pursuant to the OEB's letter dated February 25, 2025, please find the enclosed Settlement Proposal for the above-noted Proceeding and updated Interrogatory Response SEC-2.

Yours truly,

BORDEN LADNER GERVAIS LLP

Colm Boyle

Colm Boyle

JV/CB

EB-2024-0015

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B);

AND IN THE MATTER OF an application by E.L.K. Energy Inc. for an order approving just and reasonable rates and other charges for electricity distribution beginning May 1, 2025.

E.L.K. ENERGY INC.

SETTLEMENT PROPOSAL

MARCH 13, 2025

E.L.K. Energy Inc.
EB-2024-0015
Settlement Proposal

Table of Contents

E.L.K. Energy Inc.
(“E.L.K.”)
EB-2024-0015
Settlement Proposal

Filed with OEB: March 13, 2025

This Settlement Proposal is the culmination of extensive discussion and consideration by the Parties which represent an array of interests affected by E.L.K.’s Application for electricity distribution rates. Based on the evidence and rationale provided below, the Parties agree that this Settlement Proposal is appropriate and recommend its acceptance by the Ontario Energy Board (“**OEB**”).

BACKGROUND

E.L.K. filed an incentive rate-setting mechanism application with the OEB on October 28, 2024 under section 78 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, (Schedule B) (the “**Act**”), seeking approval for changes to the rates that E.L.K. charges for electricity distribution, to be effective May 1, 2025. E.L.K. is also requesting disposition of its balances from 2016 to 2023 in a deferral and variance account referred to as a Group 1 account and a single Group 2 account over a four-year period. (OEB Docket Number EB-2024-0015) (the “**Application**”).

E.L.K. described at Section 3.3 of the Application two issues that were subject to the Settlement Proposal approved by the OEB in EB-2021-0016 that it sought to correct:

1. **2015 Non-RPP GA Rate Rider** - The Embedded Distributor rate class was included within the credit disposition of Account 1589, however, this rate class is billed on Class B Actual GA rates and did not contribute to the creation of the original balance (please see section 3.3.5 of the Application for more detail). (“**2022 COS GA Rider Issue**”)
2. **Foregone Revenue Rate Rider Residual Amount –** The GS>50 kW rate class was to receive a volumetric rate rider of $0.0072 per <u>kW</u>. However, on the submitted and approved Tariff of Rates and Charges, this rider was erroneously established as $0.0072 per <u>kWh</u> (please see section 3.3.4 of the Application for more detail). (“**2022 COS Foregone Revenue Issue**”)

(together the, “**2022 COS Issues**”)

The OEB issued and published a Notice of Hearing dated November 19, 2024, and Procedural Order (“PO”) No. 1 on December 9, 2024. The Vulnerable Energy Consumer Coalition filed a late intervention request on December 10, 2024. The OEB granted the following parties intervenor status and cost eligibility (“**Intervenors**”):

Independent Electricity System Operator (“**IESO**”)
School Energy Coalition (“**SEC**”); and
Vulnerable Energy Consumers Coalition (“**VECC**”).

OEB Staff and SEC filed interrogatories on January 8, 2025.

E.L.K. filed its Interrogatory Responses with the OEB on January 27, 2025, pursuant to which E.L.K. updated several models and submitted them to the OEB as Excel documents.

PO No. 1 scheduled the Settlement Conference for February 5, 2025. A Settlement Conference was on February 5, 2025 in accordance with the OEB's *Rules of Practice and Procedure* (the "**Rules**") and the OEB's *Practice Direction on Settlement Conferences* (the "**Practice Direction**").

Michelle Dagnino acted as facilitator for the Settlement Conference which lasted for one day. E.L.K., SEC and VECC participated in the Settlement Conference. The IESO did not attend the Settlement Conference.

E.L.K., VECC and SEC are collectively referred to below as the "**Parties**". The Parties represent the parties who took a position on the relevant issues in the approved EB-2021-0016 Settlement Proposal and are thus able to agree to a settlement on the 2022 COS Issues. Hydro One Networks Inc. ("HONI") was a party to the approved EB-2021-0016 Settlement Proposal but took no position on the relevant issues. HONI was served with the application, and E.L.K. specifically ensured they were aware of the specific 2022 COS Issues aspects of the application.

OEB staff also participated in the Settlement Conference. The role adopted by OEB staff is set out in the Practice Direction (p. 5). Although OEB staff is not a party to this Settlement Proposal, as noted in the Practice Direction, OEB staff who did participate in the Settlement Conference are bound by the same confidentiality requirements that apply to the Parties to the proceeding.

This document is called a "Settlement Proposal" because it is a proposal by the Parties to the OEB to settle the issues in this proceeding. It is termed a proposal as between the Parties and the OEB. However, as between the Parties, and subject only to the OEB's approval of this Settlement Proposal, this document is intended to be a legal agreement, creating mutual obligations, and binding and enforceable in accordance with its terms. As set forth later in this Preamble, this agreement is subject to a condition subsequent, that if it is not accepted by the OEB in its entirety, then unless amended by the Parties, it is null and void and of no further effect. In entering into this Agreement, the Parties understand and agree that, pursuant to the Act, the OEB has exclusive jurisdiction with respect to the interpretation and enforcement of the terms hereof.

The Parties acknowledge that the Settlement Conference is privileged and confidential in accordance with the Practice Direction. The Parties understand that confidentiality in that context does not have the same meaning as confidentiality in the OEB's *Practice Direction on Confidential Filings* and the rules of that latter document do not apply. Instead, in the Settlement Conference, and in this Agreement, the Parties have interpreted "confidential" to mean that the documents and other information provided during the course of the Settlement Conference, the discussion of each issue, the offers and counter-offers, and the negotiations leading to the settlement – or not – of each issue during the Settlement Conference are strictly privileged and without prejudice. None of the foregoing is admissible as evidence in this proceeding, or otherwise, with one exception, the need to resolve a subsequent dispute over the interpretation of any provision of this Settlement Proposal. Further, the

Parties shall not disclose those documents or other information to persons who were not attendees at the Settlement Conference. However, the Parties agree that "attendees" is deemed to include, in this context, persons who were not in attendance via video conference at the Settlement Conference but were a) any persons or entities that the Parties engage to assist them with the Settlement Conference, and b) any persons or entities from whom they seek instructions with respect to the negotiations; in each case provided that any such persons or entities have agreed to be bound by the same confidentiality provisions.

This Settlement Proposal provides a brief description of each of the settled and partially settled issues, as applicable, together with references to the evidence. The Parties agree that references to the "evidence" in this Settlement Proposal shall, unless the context otherwise requires, include (a) additional information included by the Parties in this Settlement Proposal; (b) the Appendices to this document; and (c) the evidence filed concurrently with this Settlement Proposal titled "Responses to Pre-Settlement Clarification Questions" ("Clarification Responses"). The supporting Parties for each settled issue, as applicable, agree that the evidence in respect of that settled or partially settled issue, as applicable, is sufficient in the context of the overall settlement to support the proposed settlement, and the sum of the evidence in this proceeding provides an appropriate evidentiary record to support acceptance by the OEB of this Settlement Proposal.

There are Appendices to this Settlement Proposal which provide further support for the proposed settlement. The Parties acknowledge that the Appendices were prepared by E.L.K. While the Intervenors have reviewed the Appendices, the Intervenors are relying on the accuracy of those Appendices and the underlying evidence in entering into this Settlement Proposal.

Outlined below are the final positions of the Parties following the Settlement Conference. For ease of reference, this Settlement Proposal follows the format of the final Approved Issues List for the Application attached to the Decision on Issues List dated October 28, 2024.

The Parties are pleased to advise the OEB that they have reached a complete agreement with respect to the **settlement of the two 2022 COS Issues** in this proceeding. Specifically:

"Complete Settlement" means an issue for which complete settlement was reached by all Parties, and if this Settlement Proposal is accepted by the OEB, none of the Parties (including Parties who take no position on that issue) will adduce any evidence or argument during the oral hearing in respect of the specific issue.	# issues settled: **ALL**
"Partial Settlement" means an issue for which there is partial settlement, as E.L.K. and the Intervenors who take any position on the issue were able to agree on some, but not all, aspects of the particular issue. If this Settlement Proposal is accepted by the OEB, the Parties (including Parties who take no position on the Partial Settlement) will only adduce evidence and argument during the hearing on the portions of the issue for which no agreement has been reached.	# issues partially settled: **None**

"No Settlement" means an issue for which no settlement was reached. E.L.K. and the Intervenors who take a position on the issue will adduce evidence and/or argument at the hearing on the issue.	# issues not settled: **None**

According to the Practice Direction (p. 2), the Parties must consider whether a Settlement Proposal should include an appropriate adjustment mechanism for any settled issue that may be affected by external factors. These adjustments are specifically set out in the text of the Settlement Proposal.

The Parties have settled the issues as a package and none of the parts of this Settlement Proposal are severable. If the OEB does not accept this Settlement Proposal in its entirety, then there is no settlement (unless the Parties agree in writing that any part(s) of this Settlement Proposal that the OEB does accept may continue as a valid settlement without inclusion of any part(s) that the OEB does not accept).

In the event that the OEB directs the Parties to make reasonable efforts to revise the Settlement Proposal, the Parties agree to use reasonable efforts to discuss any potential revisions, but no Party will be obligated to accept any proposed revision. The Parties agree that all of the Parties who took a position on a particular issue must agree with any revised Settlement Proposal as it relates to that issue, or decide to take no position on the issue, prior to its resubmission to the OEB.

Unless stated otherwise, the settlement of any particular issue in this proceeding and the positions of the Parties in this Settlement Proposal are without prejudice to the rights of Parties to raise the same issue and/or to take any position thereon in any other proceeding, whether or not E.L.K. is a party to such proceeding.

Where in this Settlement Proposal, the Parties "accept" the evidence of E.L.K., or the Parties or any of them "agree" to a revised term or condition, including a revised budget or forecast, then unless the Settlement Proposal expressly states to the contrary, the words "for the purpose of settlement of the issues herein" shall be deemed to qualify that acceptance or agreement.

1. 2022 COS Foregone Revenue Issue

Complete Settlement: Notwithstanding, the terms of the approved EB-2021-0016 Settlement Proposal, subject to the adjustments in this Settlement Proposal, the Parties agree that the methodology proposed by E.L.K. in sections 3.3.5 and 3.14 of the Application is appropriate to resolve the 2022 COS Foregone Revenue Issue.

The resultant variance between actual billed and approved amount in the 1508 Revenue Differential Account and rate riders are reproduced below in Tables 1.1 and 1.2 below. E.L.K. did not propose to apply interest to the balances. The Parties agree that E.L.K. shall only recover the variance in Table 1.1 below for the "GS > 50 kW" rate class in accordance with the rate rider specified in Table 1.2 and shall write off all other variances for all other rate classes as they are de minimus.

Table 1.1: 2022 Variance between Actual Billed and Approved Amount in Revenue Differential Account

RATE CLASS	2022 APPROVED AMOUNT	Actual Amount Billed	Variance ($)
Residential	-$20,861.42	-$21,333.80	$472.38
GS < 50 kW	$7,160.10	$5,915.89	$1,244.21
GS > 50 kW	-$4,773.95	-$435,384.11	$430,610.16
Street Lighting	-$730.51	-$444.92	-$285.59
Sentinel Lighting	$20.73	$0.00	$20.73
USL	$21.83	$0.00	$21.83
Embedded Dist.	-$11,991.66	-$11,991.60	-$0.06
TOTAL	**-$31,154.88**	**-$463,238.54**	**$432,083.66**

Table 1.2: GS>50kW Rate Rider for Correction of Erroneous Disposition of Revenue Differential Account

RATE CLASS	Unit	Variance (2022 Approved Less Total Amount Billed)	Variable Rate Rider (Rounded to 4 decimal places)
GS > 50 kW	kW	$430,610.16	$2.0018

Evidence:

Application: Sections 3.3.5 and 3.14, paragraph 25(d).

IRRs: Staff-16, SEC-2, SEC-3.

Updated IRRs: SEC-2.

Supporting Parties: All

Parties Taking No Position: None.

2. 2022 COS GA Rider Issue

Complete Settlement: Notwithstanding, the terms of the approved EB-2021-0016 Settlement Proposal, the Parties agree that the methodology proposed by E.L.K. in sections 3.3.4 and 3.14 of the Application are appropriate to resolve the 2022 GA Rider Issue.

The resultant reallocation of 1589 balances and rate riders are reproduced below in Tables 2.1 and 2.2 below, inclusive of interest rate updates. E.L.K. identified a formulaic inconsistency in the spreadsheet used in the Application in respect of the interest calculation for the GS>50 class represented in Table 8 of the Application. The Parties accept the updated interest calculations are based on the OEB's prescribed interest rates, as set out in Table 2.1 below.

Table 2.1: Reallocation of 2015 1589 Balances relative to 2022 Cost of Service

Rate Class	Original Amount per Decision	Amount Refunded to Customers	Residual Amount	Reallocation of Embedded Distributor Credit	Adjusted Residual Amount	Interest to April 30, 2025	Total Claim
Residential	-$11,085	-$7,588	-$3,498	-$8,696	-$12,194	-$1,246	-$13,440
General Less Than 50 Kw	-$18,977	-$26,904	$7,926	-$14,888	-$6,961	-$2,133	-$9,094
General 50 To 4,999 Kw	-$304,025	-$264,308	-$39,717	-$238,503	-$278,220	-$34,168	-$312,387
Unmetered Scattered Load	-$1,313	-$543	-$769	-$1,030	-$1,799	-$148	-$1,947
Street Lighting	-$728	-$164	-$564	-$571	-$1,135	-$82	-$1,217
Sentinel Lighting	-$6,766	-$6,311	-$454	-$5,308	-$5,762	-$760	-$6,522
Embedded Distributor	-$268,995	$0	-$268,995	$268,995	$0	$0	$0
Total	**-$611,889**	**-$305,818**	**-$306,071**	**$0**	**-$306,071**	**-$38,536**	**-$344,607**

Table 2.2: Rate Riders for Reallocated 2015 1589 Balances

Rate Class	Disposition Amount	Class B Non-RPP kWh*	$/kWh Rate Rider
Residential	-$13,440	1,415,296	-$0.0095
General Less Than 50 Kw	-$9,094	5,619,122	-$0.0016
General 50 To 4,999 Kw	-$312,387	52,508,517	-$0.0059
Unmetered Scattered Load	-$1,947	103,260	-$0.0189
Street Lighting	-$1,217	31,182	-$0.0390
Sentinel Lighting	-$6,522	1,187,658	-$0.0055
Embedded Distributor	-	47,435,811	-
Total	**-$344,607**	108,300,846	

Evidence:

Application: Sections 3.3.4 and 3.14, paragraph 25(c).

IRRs: Staff-17, SEC-2, SEC-3.

Updated IRRs: SEC-2.

Supporting Parties: All

Parties Taking No Position: None.

3. Appendices

Appendix A – Pre-Settlement Clarification Questions

E.L.K. Energy Inc.
EB-2024-0015
February 4, 2025

E.L.K. Energy Inc. (E.L.K.) confirms this submission does 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*.

OEB Staff Clarifying Question-1
Ref. 1: ELK_2025-IRM-Rate-Generator-Model_20241028, Tab 3 Continuity Schedule
Preamble:
On December 11, 2024, the OEB published the Q1 2025 prescribed accounting interest rate applicable to the carrying charges of deferral, variance and construction work in progress (CWIP) accounts of natural gas utilities, electricity distributors and other rate-regulated entities.

Question(s):

a) Please update Tab 3 (Continuity Schedule) as necessary to reflect Q1 2025 OEB-prescribed interest rates of 3.64% for the Rate Generator Model.

Response:

a) Please see column BR in Tab 3 (Continuity Schedule) of the IRM Model submitted January 27, 2025 (ELK_2025-IRM-Rate-Generator-Model_20250127), in which the OEB-prescribed interest rate of 3.64% is appropriately reflected. This value remains consistent in the attached update, ELK_2025-IRM-Rate-Generator-Model_20250204.

OEB Staff Clarifying Question-2
Ref. 1: ELK_2025-IRM-Rate-Generator-Model_20241028, Tabs 11, 15, and 20
Preamble:
On December 19, 2024, the OEB issued a rate order regarding 2025 Final Hydro One Sub-Transmission Rates.

On January 21, 2025, the OEB issued a Decision and Rate Order regarding Final 2025 UTRs.

<u>Updated UTRs</u>

Network Service Rate	6.37
Line Connection Service Rate	1.00
Transformation Connection Service Rate	3.39

Hydro One Sub-Tx Rates

Network Service Rate	5.3280
Line Connection Service Rate	0.6882
Transformation Connection Service Rate	3.4894
Both Line and Transformation Connection Service Rate	4.1776

Question(s):

a) Please update the Rate Generator Model with the above changes.

Response:

a) Please find attached an updated IRM Model, ELK_2025-IRM-Rate-Generator-Model_20250204, inclusive of the requested changes.