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**File No. 17001.13**

October 9, 2025

**BY EMAIL & RESS**  
**registrar@oeb.ca**

Mr. Ritchie Murray  
Ontario Energy Board  
2300 Yonge Street, 27th floor  
P.O. Box 2319  
Toronto, ON M4P 1E4

Dear Mr. Murray:

**Re: E.L.K. Energy Inc. (“E.L.K. Energy”) Application for 2025 Distribution Rates (EB-2024-0015)  
Procedural Order No. 6**

On September 15, 2025, the Ontario Energy Board (“OEB”) issued Procedural Order No. 6 ordering E.L.K. Energy to participate in an Issues Day on October 2, 2025. The OEB also ordered E.L.K. Energy to file any additional information regarding Accounts 1550, 1588, and 1589 arising from the Issues Day with the OEB by October 9, 2025. E.L.K. Energy confirms it participated in Issues Day and encloses the response to the OEB’s direction for additional information, which includes the attached evidence:

- a) An updated IRM Model, which reflects the OEB’s Partial Decision and Order with respect to all issues other than disposition of Accounts 1550, 1588 and 1589, as well as E.L.K. Energy’s current request for disposition of balances in Accounts 1550, 1588 and 1589;
- b) Updated foregone revenue rate rider calculations, dividing the riders into separate fixed and variable components at the request of OEB Staff;
- c) New calculation of rate riders for Accounts 1550, 1588 and 1589. These rate riders are based upon the balances sought for disposition and shown in the Continuity Schedule of the IRM Model, calculated consistent with the calculations of the IRM Model. The calculations and riders have been completed separately to accommodate a 48 month disposition period for these accounts;
- d) An updated response to interrogatory Staff-12, which clarifies E.L.K. Energy’s efforts and position on the 1% threshold test for Account 1588 balances; and,

- e) An updated response to interrogatory SEC-2 i), which updates the outstanding balances and allocation to ratepayers of amounts in Accounts 1550, 1588 and 1589.

E.L.K. Energy believes it is important to highlight to the OEB the exhaustive efforts it undertook to reconcile the differences in the 1588, 1589, and 1550 balances. As set out in detail in the “Compendium for Issues Day” filed on October 1, 2025, E.L.K. Energy conducted a third party audit by KPMG, received assistance from Entegrus Inc. under a Management Services Agreement (~2000 hours), liaised for weeks with Hydro One and the IESO, retained legal counsel and expert consultants, and internal staff spent countless hours analyzing and compiling data. Despite these efforts, E.L.K. Energy cannot isolate the cause(s) of the underbilling.

E.L.K. Energy appreciates this may be an unsatisfying answer for the OEB, however, it is not evident that further efforts would provide additional insight. Moreover, this proceeding constitutes a condition precedent under the Purchase and Sale Agreement in EB-2025-0172 concerning the acquisition of E.L.K. Energy by Windsor Canada Utilities Limited. This is a critical transaction that is intended to put E.L.K. Energy on a path towards operational and financial viability. Put simply, further delays in this proceeding imperil the closing of the transaction.

During the Issues Day, E.L.K. Energy stated and clarified its outstanding requested relief within this proceeding, which is as follows:

**1. An Order disposing of Accounts 1588 and Accounts 1589 Balances**

E.L.K. Energy is requesting an Order disposing of Accounts 1588 and Accounts 1589 balances for the 2016-2023 years to the benefit of customers, with a disposition period of not less than four years. Irrespective of the disposition period of 12 months approved for all balances other than Accounts 1550, 1588 and 1589, the remaining balances awaiting disposition are substantially larger than the (\$351,940) credit approved in the OEB’s Partial Decision and Order. Disposition over a period of 4 or more years is needed to preserve the ongoing financial viability of E.L.K. Energy. The combined balance of Accounts 1588 and 1589 is a credit to ratepayers of (\$7.07) million, as outlined in greater detail in the updated response to interrogatory SEC 2 i) attached to this correspondence.

**2. An Order disposing of Account 1550 Balances**

E.L.K. Energy is requesting an Order disposing of Account 1550 to the benefit of E.L.K. Energy in the amount of \$1.25 million. For clarity, and as outlined in Response to Supplemental OEB Staff Interrogatory 6 d), this balance is inclusive of a credit to ratepayers of (\$381,033) relating to balances prior to 2021 that were previously approved by the OEB on a final basis. This amount, which was previously debited to ratepayers in error via Account 1550, should have been recorded in Accounts 1588 and 1589 during the pre-2021 period, and in order to correct Accounts 1588 and 1589 (which have not been approved since 2015) debit entries of \$59,645 and \$321,388, respectively are required. The (\$381,033) credit included in Account 1550 is the necessary corresponding credit entry to correct Accounts 1588 and 1589. Absent approval of this credit entry, the balance in Account 1550 from 2021 to 2023 would be a debit of \$1.63 million to ratepayers rather than \$1.25 million as requested.

### **3. An Order Enabling Collection of Under-Recovered Amounts from the IESO**

E.L.K. Energy is requesting an Order enabling the collection of \$2.8 million in net under-recovery by E.L.K. Energy from the IESO, in accordance with section 36.1.1(7)(b) of the Electricity Act, since the associated invoices for payment, adjustment or amount were issued by the IESO more than 24 months ago. As outlined on pages 18 and 19 of E.L.K. Energy's Application, the corrections and settlements required with the IESO are as follows:

- a) Completion of RPP TOU / Tier True Up: E.L.K. Energy re-calculated the necessary historical submissions using the OEB's Accounting Guidance Related to Accounts 1588 RSVA Power and 1589 RSVA Global Adjustment issued in February 2019. This resulted in a credit (i.e. under-recovery) from the IESO in the amount of (\$3.8) million;
- b) FIT Contracts: E.L.K. Energy corrected an error for FIT renewable contracts where E.L.K. Energy previously did not net the Hourly Ontario Energy Price ("HOEP") from the FIT contract price; instead relying on the full, unreduced FIT contract price. The effect of this error is a debit (i.e. over-recovery) to the IESO in the amount of \$1.2 million; and,
- c) Timing of Billing Determinants: E.L.K. Energy corrected an error for Class A volumes that were being submitted based on volumes billed in that month, as opposed to volumes consumed in that month. This timing difference of billing determinants results in a credit (i.e. under-recovery) from the IESO of (\$0.2) million.

In OEB Staff Interrogatory 11 d), OEB Staff requested E.L.K. Energy "confirm that E.L.K. Energy understands that the RPP true-up adjustments are excepted from the two-year limitation window set in the regulation. In other words, only \$1.2 million debit for FIT contracts and \$0.2 million credit for Class A customers." E.L.K. Energy responded as follows:

"E.L.K. Energy does not dispute the interpretation of O.Reg. 153/23 provided by OEB Staff. However, E.L.K. Energy's view is that the three adjustments should be made with the IESO at the same time. E.L.K. Energy notes that the IESO is a party to this proceeding and E.L.K. Energy looks forward to hearing the IESO's views regarding the required adjustments, if provided, through the course of this proceeding."

In the event the OEB does not grant E.L.K. Energy's requested relief on this issue, E.L.K. Energy will still be enabled (in fact, required) to submit a correction to the IESO to collect a credit to E.L.K. Energy of (\$3.8) million. However, if in this instance the IESO's interpretation of O.Reg 153/23 is consistent with the interpretation expressed by OEB Staff in interrogatory Staff-10 d), E.L.K. Energy will be unable to settle the \$1.07 million debit owed to the IESO (i.e. the combined value of items b and c above). E.L.K. Energy is requesting an Order for the IESO to settle all three items listed above, to ensure clarity on the outcome of revised settlements with the IESO, accuracy of revised settlements with the IESO, and fairness for all parties.

Yours truly,

**BORDEN LADNER GERVAIS LLP**

A handwritten signature in black ink, appearing to read "Colm Boyle". The signature is written in a cursive, slightly slanted style.

Colm Boyle

CB/JV