November 4, 2025

via RESS

Ritchie Murray
Acting Registrar
Ontario Energy Board
2300 Yonge Street
P.O. Box 2319
Suite 2700
Toronto, ON M4P 1E4
Email: Boardsec@oeb.ca

Dear Mr Murray:

Re: EB-2025-0046 – Elexicon Energy Inc. ("Elexicon") ICM and Group 2 Application Reply Argument

Pursuant to Procedural Order No. 1 dated September 3, 2025, please find attached Elexicon's Reply Argument.

Please contact me by phone at (905) 427-9870 or by e-mail at svetsis@elexiconenergy.com if you have any questions.

DocuSigned by:
Stephen Vetsis
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Stephen Vetsis
Vice President Regulatory Affairs and Stakeholder Relations
Elexicon Energy Inc.

ONTARIO ENERGY BOARD

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

AND IN THE MATTER OF an Application by Elexicon Energy Inc. to the Ontario Energy Board for an Order or Orders approving or fixing just and reasonable rates and other service charges for the distribution of electricity for Elexicon Energy Inc. as of January 1, 2026.

ELEXICON ENERGY INC.
REPLY ARGUMENT

FILED: November 4, 2025

Board File No. EB-2025-0046

ELEXICON ENERGY INC.

REPLY ARGUMENT

1. On July 15, 2025, Elexicon Energy Inc. ("**Elexicon**") filed an incentive rate-setting mechanism ("**IRM**") application with the Ontario Energy Board ("**OEB**") under section 78 of the *Ontario Energy Board Act, 1998* seeking approval of its proposed distribution rates and other charges, effective January 1, 2026 ("**Application**").[1]

2. Between October 21 and 23, 2025, the Power Workers' Union ("**PWU**"), OEB Staff, the Coalition of Concerned Manufacturers and Businesses of Canada ("**CCMBC**"), the School Energy Coalition ("**SEC**"), the Vulnerable Energy Consumer Coalition ("**VECC**"), the Quinte Manufacturers Association ("**QMA**"), and Consumers Council of Canada ("**CCC**") filed written submissions on the Application in accordance with Procedural Order No. 1.

3. The PWU supports Elexicon's two requests for Incremental Capital Module ("**ICM**") funding to rebuild the Sandy Beach Substation at its current location and to fund the capital contribution to Hydro One Networks Inc. ("**HONI**") for the installation of a new Dual Element Spot Network ("**DESN**") at Belleville Transformer Station ("**TS**") ("**Belleville DESN 2**"). Elexicon agrees with PWU that the Sandy Beach Substation is needed to address immediate and significant issues related to the reliability, safety, and continued operations. Elexicon also agrees that Belleville DESN 2 investment is needed to address immediate capacity constraints in Belleville.[2]

4. The QMA supports Elexicon's participation in the Belleville DESN 2 project and the request for ICM funding to support the capital contribution to Hydro One.[3]

5. OEB Staff, CCMBC, SEC, VECC, and CCC each take issue with aspects of the Application. Elexicon will address the concerns raised by these interveners on an issue-by-issue basis.

I. <u>INITIAL COMMENTS</u>

6. At the outset, Elexicon would first like to draw the OEB's attention to the fact that only \$38.9M in capital spending is currently funded in rates. This means that even with ICM approval, Elexicon still faces roughly \$5 million in unfunded capital toward its projected \$43.951M capital budget.

7. OEB Staff and many interveners suggest that Elexicon can absorb the total costs of as much as \$23M into existing rates for the Sandy Beach Substation and Belleville DESN 2, depending on the position of the intervenor. The reality is that there is no room within existing rates to absorb these costs as Elexicon has significant need for

[1] For more detail on the relief sought please refer to pages 5-8 of the Application.
[2] PWU Submission at paras 8-9.
[3] QMA Submission at pg. 3.

investment in mandatory areas of work such as customer-demand driven System Access work ($21.8M) and reactive capital ($7.5M[4]) to restore power when assets have failed. As shown in the response to Staff-30 part h), Elexicon's planned 2026 investments have levels of planned System Renewal and General Plant investment below the historical average level of spend over the 2022-2026 period to balance competing priorities with other mandatory work indicating that Elexicon has reduced or deferred work where it can. However, the investment needs of Elexicon's system significantly outpace what is funded in base rates. Application of "beneficiary pays" principle would see the primary beneficiaries (ratepayers) of these urgently required ICM projects bearing those costs.

8. Denial of the ICM requests, along with the interveners' proposed adjustments to deferral and variance accounts, will negatively impact Elexicon's financial viability and put at risk investments critical to providing reliable electricity to its customers. This is particularly problematic at a time when Elexicon's return on equity is already 4.04% below the deemed rate for 2024 and forecast to be more than 300 basis points below the deemed amount in 2025.

9. Elexicon submits that its Group 2 disposition proposal be granted as requested. The Total Bill Impact is less than 10% for each rate class (4.7% for VRZ Residential and 1.1% for WRZ Residential). The balances requested for disposition were substantiated with corresponding schedules and supporting evidence. Neither the intervenors nor OEB Staff have raised reasonable objections to the request as filed. For regulatory efficiency and to not unfairly burden ratepayers, Elexicon requests the disposal of these accounts use the default period for disposition of one year. By disposing of balances prior to rebasing, Elexicon can alleviate bill impacts for ratepayers at rebasing and mitigate rate increases expected in 2027.

10. No party has objected to Elexicon updating its ICM rate riders in the event the OEB does not approve early rebasing. Disposing of the DVA balances now has the added benefits of smoothing rate impacts and simplifying the upcoming cost of service application where rates will be harmonized.[5]

II. <u>REBASING APPLICATION</u>

11. CCC, SEC and VECC take the position that it is more appropriate for the ICM requests to be brought forward as part of the prospective 2027 rebasing application.[6] These interveners assert that a cost of service proceeding allows the OEB to consider the need and bill impacts in the context of the overall capital plan and SEC even goes as far to speculate that Elexicon is "driven by a desire" to increase 2026 revenues. Without any supporting evidence, SEC asserts that Elexicon will not be adversely affected if it waits a few more months to include the ICM projects in the 2027 rebasing application.

[4] Response to interrogatory Staff-38 part c).
[5] See all of the benefits listed in IR Response 1-Staff-8(b).
[6] CCC Submission at pg. 4; SEC Submission at pg. 3; VECC Submission at pg. 2.

12. Elexicon respectfully submits that the characterization of the factual record by CCC, SEC, and VECC is inaccurate, as the ICM projects are both urgent and necessary. Elexicon is not "driven by a desire" to increase 2026 revenues. Rather, Elexicon is acting as a prudent distributor seeking incremental capital funding during the IRM term, in accordance with well-established OEB ICM policy, to address urgent system risks.

13. Interveners suggest that that the time between the identification of need and the ICM funding indicates these investments are not urgent. This assertion ignores the significant supply chain challenges during and post COVID. It is well understood that price and lead times for key equipment, materials and services have significantly increased. Indeed, Elexicon encountered significant lead times for equipment for equipment in this case (i.e., Elexicon intended to replace the Sandy Beach transformer in 2023 but was delayed by equipment delivery times).[7]

14. In the case of Sandy Beach, Elexicon quickly restored service with a temporary transformer, considered alternatives and determined the station would require a full rebuild, conducted an RFP process to order replacement transformers, and is currently waiting on equipment that has a long lead time for delivery. Elexicon identified 2026 as the earliest in-service date for the rebuild of the station.[8] Leaving the undersized temporary transformer on a wooden structure at a station that has several end-of-life components poses significant reliability, environmental and safety risks that were described in detail in the Application.[9]

15. Similarly, in the case of Belleville DESN 2, the power transformers and circuit breakers were to be delivered in September 2025, the PCT in June 2024, Capacitor Banks in March 2025, and Switches in August 2025. The existing DESN#1 station was projected to exceed its capacity as early as 2025. If the Belleville DESN 2 construction does not proceed, Elexicon will not be able to meet the capacity needs of its customers. Elexicon would have to overload the system, with many customers experiencing regular outages. The proposed Belleville DESN 2 addresses current station capacity need as early as possible.[10]

16. This proceeding is not the appropriate forum for the OEB to be making ad hoc changes to its ICM policy. Requiring utilities to bring forward ICM applications into a cost-of-service proceeding does not make sense when one of the ICM criteria is that the claimed amounts must be clearly outside of the base upon which rates were derived. In establishing the ICM policy, the OEB expressly considered whether such funding should be addressed through rebasing, but determined that ICM funding is appropriately available during an IRM term:[11]

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[7] Application, Appendix A at para 15; Appendix B at para 4 and 27
[8] Application, Appendix B at paras 3-4 and 27; IR Response CCC-11.
[9] Application, Appendix B at paras 8, 19-22.
[10] Application, Appendix C at paras 4, 25, 31 and 33.
[11] OEB, Report of the Board on 3rd Generation Incentive Regulation for Ontario's Electricity Distributors, July 14, 2008, at pg. 32

> The Board has determined that there will be an incremental capital module in 3rd Generation IR. Distributors with an amount of capital spending that exceeds the materiality threshold may best be accommodated through rebasing. However, on balance, as all participants acknowledged, some incremental capital investment needs may arise during the IR term and the Board notes that a clearly defined modular approach is generally accepted.
>
> The incremental capital module described in this report is intended to address concerns over the treatment of incremental capital investment needs that may arise during the IR term.

17. Deferring recovery of large capital costs for an additional year will also have an adverse impact on a utility whose ROE is already more than 300 basis points below the off ramp deadband.[12]

18. Finally, Elexicon's request for early rebasing has not yet been approved and it is incorrect to assume rebasing will occur in 2027 and not in 2029 as currently planned.

III. ICM ELIGIBILITY – SANDY BEACH

19. With respect to Sandy Beach Station, OEB Staff and interveners take the following positions:

Party	Need	Materiality	Prudence
OEB Staff	Met but reduce funding	Met	Met
SEC	Not met – not outside base rates	Not met – revised eligible amount of $5.5M is not material	No position
VECC	Not met – not outside base rates	No position	No position
CCC	Not met – not outside base rates	No position	No position

20. Elexicon only intends to reply to the aspects of need and materiality that were raised by interveners and OEB Staff. None of the interveners take issue with the prudence of the Sandy Beach project costs. Elexicon does not intend to repeat the ICM legal framework that was set out in OEB Staff's submission.

[12] Application, Appendix A at para 47.

A. Need – Outside the Base Upon Which Rates Were Derived

21. SEC, VECC and CCC take the position that all, or a substantial portion, of the Sandy Beach Station is part of the company's normal capital program for substation transformer replacements and the claimed amounts are not outside of the base rates. SEC and VECC take the position that a portion of capital funding is available in existing rates. SEC states that approximately $4.2M can be funded through base rates and the remaining $5.5M is not material.[13] OEB Staff takes a similar approach to SEC but does not make an inflationary adjustment and argues that $3.15M should be funded through base rates.[14] CCC takes the position that the entire $9.7M should be funded through existing rates.[15]

22. Elexicon disagrees with these approaches. The Sandy Beach Station is not funded through base rates, making it eligible for ICM funding.

23. Base rates for the Whitby RZ[16] and Veridian RZ[17] were last rebased in 2011 and 2014, respectively. The failure of the Sandy Beach Station did not occur until 2022. Asset condition assessment results prior to 2022 indicated the health index for Sandy Beach Station to be 'Fair', and it was not identified for replacement in the 2021 DSP. The Asset Condition Assessment results in May 2022 identified the Sandy Beach T2 transformer as being in poor condition and the T2 transformer subsequently failed shortly thereafter, prior to any investment or renewal planning for the station had been initiated.[18] The Sandy Beach Station was not part of the capital expenditure plans when rates were last rebased.

24. OEB Staff and SEC mistakenly claim that a substantial portion of the funding for Sandy Beach Station is already included in base rates. They do this by inaccurately portraying two distinct projects from Veridian Connections Inc.'s ("**Veridian**") last cost of service as ongoing annual transformer replacement programs. Specifically, the OEB Staff and SEC combined forecasted capital expenditures for separate projects from the 2014 test year, namely the "Greenwood Substation Transformer Replacement" and "Fairport Transformer Replacement and Component Upgrades," as detailed in Appendix 2-AA and shown in the table below:[19]

Projects	2008	2009	2010	2011	2012	2013 Bridge Year	2014 Test Year
Reporting Basis	**CGAAP**	**CGAAP**	**CGAAP**	**CGAAP**	**CGAAP**	**CGAAP**	**CGAAP**
Substations Transformer Replacement, Greenwood Substation							713,000
Substation Transformer Replacement and Component Upgrades-Fairport SS							2,434,500

[13] SEC Submission at pg. 6; VECC Submission at pg. 5.
[14] OEB Staff Submission at pgs. 11-12.
[15] CCC Submission at pg. 4.
[16] EB-2009-0274; Application, Appendix D pg. 4.
[17] EB-2013-0174; Application, Appendix D pg. 3.
[18] IR Response CCC-17.
[19] EB-2013-0174, Chapter 2 Appendices, October 13, 2013, Tab 2AA Capital Projects

25. It is clear from reviewing the spending profile above and the material investment narratives in Veridian's cost of service application[20] that the costs associated with the "Greenwood Substation Transformer Replacement" and "Fairport Transformer Replacement and Component Upgrades" were one-time costs in the test year. These projects were not ongoing annual capital programs.

26. OEB Staff and SEC seem to be misapplying the OEB's decisions in cases EB-2022-0013 and EB-2023-0004. In those cases, the OEB evaluated historical annual capital expenditures for Alectra Utilities when determining whether to grant ICM funding for an <u>ongoing annual capital program</u> related to cable injections and replacements.[21] This case is distinguishable and it is incorrect for OEB Staff and SEC to assume that the $3.15M in one-time capital spending on two discrete projects in the 2014 test year will persist annually into the future.

27. This distinction is crucial because Elexicon has the right to manage its capital budget as a whole, rather than at the individual component level.[22] In both the Whitby RZ and Veridian RZ the Settlement Proposals expressly stated that "*…actual decisions as to how to allocate resources, and in what areas to spend the agreed upon capital and OM&A, are ones that must be made by the utility during the course of the year, subject to the Board's normal review in subsequent proceedings.*"[23] The Sandy Beach Station was not included in capital expenditures approved in the last rebasing application. OEB Staff and SEC should not be surprised that one-time capital costs were reallocated to other priorities in subsequent IRM years.

28. <u>Elexicon's 2026 capital forecast already exceeds the $38.9M funded in rates, even without ICM projects</u>. In the April 1, 2021 MAADs application DSP, Elexicon projected $41.996 million in capital expenditures. Currently, Elexicon anticipates spending beyond its DSP budget in 2026, reaching a total of $43.951M—approximately 5% above the DSP budget and 13% above current funding levels.[24]

29. Given Elexicon's discretion in allocating its capital budget and the fact that actual spending already exceeds forecast levels, it is incorrect for OEB Staff and interveners to assert that Elexicon has a fixed annual budget of $4.2M in base rates for substation transformer replacements that can be allocated to the Sandy Beach Station. The entire capital budget has already been fully allocated.

30. Elexicon determines the allocation of its annual capital budget based on the asset planning framework set out in detail in interrogatory responses Staff-29 and CCC-17. The rebuild of Sandy Beach Station was only identified in 2023 as a high priority project due to the overall condition of the station, the safety and environmental issues

[20] EB-2013-0174, Ex 2 Tab 3 Sch 14 pgs. 42 to 49.
[21] Decision and Order EB-2023-0004, February 13, 2024, pg. 17; OEB, Decision and Order, EB-2022-0013, November 17, 2022, p.12.
[22] IR Response 1-Staff-22(h)
[23] OEB Decision EB-2009-0274, December 20, 2010, Whitby Hydro Electric Corporation, Proposed Settlement Agreement, pg. 5 of 25; OEB Decision EB-2013-0174, Veridian Connections Inc., Settlement Proposal, Page 5 of 54
[24] Application, Appendix A, Table 9. IR Response 1-Staff-38.

at the site, the operational inefficiencies posed by the current configuration and legacy equipment, and the fact this station is operating with an undersized temporary spare transformer.[25] The Sandy Beach Station is incremental, urgent, material, and of sufficient size that its costs have a significant impact on Elexicon's operations, as concluded by OEB staff in their submission.[26]

31. SEC, VECC, CCC and OEB Staff fail to recognize that Elexicon has increasing investment needs in other mandatory areas of its capital program which require allocation of funds, such as:[27]

    a. $21 million for mandatory System Access to address customer-driven work such as connections and relocations of infrastructure,

    b. $7.5 million for reactive capital to restore power following outages – a mandatory obligation under the DSC and Elexicon's distribution licence.

32. Even if there were an annual budget of $3.15M for substation replacements, which Elexicon does not agree to, the submissions overlook the fact that Elexicon requires $2.7M for essential system renewal investments in other substations.[28]. The full cost of the ICM projects would still be eligible to be fully funded even if the entire General Plant category was reduced to $0.[29] If the application were approved as filed, Elexicon would already be providing approximately $5M in unfunded capital investment in 2026.

33. If Elexicon is required to "absorb" the Sandy Beach Project into existing rates, this means that Elexicon will be self-funding $15M in capital costs within a total capital budget of approximately $53.7M, excluding the Belleville DESN 2 project. It is inappropriate that Elexicon would be funding 28% of its capital budget to the benefit of ratepayers particularly when SEC and VECC concede that Sandy Beach Station is necessary to maintain system integrity and reliability.[30]

34. Finally, OEB Staff requests that the OEB direct Elexicon to review its station replacement policy to consider future increased capacity in its next DSP. Elexicon submits that the OEB does not need to issue this order, as it will provide all necessary information to support capital investments in the early rebasing application.

35. For the reasons above, the requested amounts for Sandy Beach Station incremental and are clearly outside the base upon which the rates were derived. Elexicon submits the OEB should not reject or reduce the requested ICM funding on this basis.

[25] Application, Appendix A, para 10.
[26] OEB Staff Submission at pg. 9.
[27] IR Responses 1-Staff-30(a), 1-Staff-38(a) and VECC-5.
[28] IR Response VECC-5(c).
[29] IR Response 1-Staff-30(e).
[30] SEC Submission at pg. 4; VECC submission at pg. 5 where Sandy Beach Station is "directly related to the claimed driver"; CCC does not object to the claimed driver.

B. Materiality

36. SEC suggests that if the Sandy Beach TS eligible for ICM recovery are reduced to $5.5M that it would not meet the materiality test as a project. Elexicon disagrees and submits that $5.5M is clearly material. Elexicon notes that the OEB approved $3.4M in ICM funding for Elexicon's Bus Rapid Transit (BRT) Highway 2 project in the EB-2021-0015 application. If $3.4M is material, then $5.5M is also clearly material.

IV. ICM ELIGIBILITY – BELLEVILLE DESN 2

37. With respect to Belleville DESN 2, OEB Staff and interveners take the following positions:

Party	Need	Materiality	Prudence
OEB Staff	Met but have concerns	Met	Met
SEC	Met	Met	Not met – undertake full reassessment of alternatives
VECC	Met	Met	Met but reduce for capital contributions
CCC	No position but OEB should defer to COS to consider cost allocation		

38. Elexicon only intends to reply to the aspects of prudence that were raised by SEC and VECC. None of the interveners or OEB Staff take issue with the need or materiality of the Belleville DESN 2 project costs. Elexicon does not intend to repeat the ICM legal framework that was set out in OEB Staff's submission.

39. While OEB Staff supports the ICM funding for Belleville DESN 2 and is not recommending a reduction, OEB Staff appears to suggest that Elexicon should have forecasted capital needs to address "foreseeable system needs such as capacity constraints" when requesting base rates during cost of service applications over a decade ago. This position is fraught with difficulties. The most obvious being the significant challenge utilities would face in having capital programs seeking funding 11 years into the future (as would be the case for Veridian RZ here) based on load forecasts with many assumptions. The ICM policy already addresses the issue OEB Staff is concerned about – utilities have access to a mechanism for incremental funding to support infrastructure investments of the nature in this Application. While Elexicon shares its views in response to OEB Staff, Elexicon notes that nothing in this Application turns on this point.

40. CCC submits that the Belleville DESN 2 should be dealt with in the rebasing application. This argument is addressed above.

A. Prudence

41. SEC submits that the significant cost increase in the Belleville DESN 2 requires Elexicon to perform a full reassessment of alternatives, including an evaluation of non-wires alternatives.[31]

42. It is not clear what change in budget SEC refers so. The total estimated cost for Belleville DESN 2 is $63.5M and Elexicon's portion is $32.4M.[32] The estimated cost for Belleville DESN 2 used in the options analysis is $32M, which represents costs to Elexicon only.[33] A $0.4M difference is within the range of a Class 3 estimate.[34]

43. The evidence does not support a full reassessment for a non-wires alternative. During the Peterborough to Kingston IRRP process conducted in 2021, the IESO used a screening approach to assess which needs would be best suited for a detailed assessment of a non-wires alternative. The IESO did not identify any non-wires alternatives and such solutions were ruled out at the regional planning level due to the immediacy of the need.[35] A change in budget will not change the result of this technical analysis.

44. Elexicon projected that peak load in 2025 will exceed the normal capacity available through Belleville DESN 1. Overloading the existing transformer carries higher operational risk.[36] The determination that Belleville DESN 2 is the most cost-effective solution was made during the 2022 Peterborough to Kingston Regional Infrastructure Plan led by Hydro One.[37] Belleville DESN 2 addresses an urgent system need and system reliability will be jeopardized if Elexicon halts construction activities to reassess alternatives. This is not a prudent course of action, especially since much of the equipment has already been ordered and may be a sunk cost.

B. Capital Contribution Offset

45. Both SEC and VECC assert that there is no indication that Elexicon has calculated a capital contribution from this second customer or from the customer(s) responsible for the remaining 1.2 MW. SEC submits that it must be required to do so and that the calculated contributions should be subtracted from the requested $18.4 million.[38]

46. Elexicon has met all obligations in the Distribution System Code ("**DSC**") with respect to ensuring capital contributions have been collected from customers that trigger the need for the Belleville DESN2 substation. Under section 3.6.1 of the DSC, it is Hydro One that is responsible for calculating the capital contribution amount for each

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[31] SEC Submission at pg. 5.
[32] IR Response VECC-19.
[33] Application, Appendix C, at para 7 and pg. 18.
[34] Application, Appendix C, Footnote 5.
[35] Application, Appendix A, para 30; Application, Appendix C, paras 29-30; IR Response 1-Staff-31(f); IR Response SEC-5.
[36] Application, Appendix C, para 16-17.
[37] IR Response CCC-8; IR Response CCC-12
[38] SEC Submission and pg. 5; VECC Submission at pgs. 6-7.

beneficiary using the methodology and inputs described in Appendix 5 of the Transmission System Code ("**TSC**"). The distributor is only responsible for collecting the capital contributions based on the calculations performed by Hydro One.

47. Based on the configuration of infrastructure and the source of supply that will be utilized, only one of the two customers is required to make the capital contribution.

48. The first customer is required to make a capital contribution toward the Belleville DESN2 substation because its incremental load contributes directly to the need for the new transmission facility. This capital contribution is already reflected in the application. Hydro One has permitted the first customer to temporarily connect its additional load to DESN1, but this is conditional on the load being transferred to DESN2 once it is constructed. As such, customer one's load is considered a beneficiary of the new facility under Section 3.6 of the DSC and Section 6.3.20 of the TSC.

49. The second customer is not required to make a capital contribution because its incremental load was fully accommodated on DESN1. The analysis indicates that DESN2 was not necessary to support the second customer's load, and therefore this customer does not meet the criteria for a capital contribution under the DSC and TSC.

V. <u>OTHER MATTERS</u>

A. Half Year Rule

50. On the basis of the forecast the in-service date for the Sandy Beach project of October 30, 2026 and the Belleville DESN 2 project of December 17, 2026, SEC argues the OEB should not approve the use of the half-year rule. Instead, the revenue requirement should be calculated based on the actual in-service dates. This would mean the related expenses in revenue requirement would instead be calculated on a partial-year treatment proportional to the number of months from the in-service date.[39] Given the effective dates of the two projects, this would result in recovery of a small fraction of the proposed $1.4M ICM revenue requirement in 2026.

51. Elexicon submits that the estimated in-service dates for both ICM projects are not yet refined enough to apply "partial-year" treatment prorated on a monthly basis. While Elexicon is forecasting the ICM projects will be in-service in 2026, the exact month is still uncertain and could potentially shift earlier in 2026 in the case of Belleville DESN 2.[40].

52. The notion that the half year rule should not be applied because the in-service date is later in the year also deviates from the Board's treatment of previous ICM investments. In EB-2021-0015 Elexicon received approval for ICM funding for the Seaton TS which was scheduled to be in service in November of 2022. The OEB applied the half year

[39] SEC Submission at pg. 6.
[40] In the response to 1-Staff-26, the current schedule forecasts that the Belleville DESN 2 construction will be completed in September 2026.

rule in that case and found that funding was appropriate as the asset would be used or useful in the year in which the funding would be received:[41]

> The OEB will not require a deferral of the project to alter the in-service date beyond November 2022. The OEB finds that the asset would be used or useful in 2022 to enhance flexibility in service delivery as back-up to the Whitby TS in the short-term or redirect power in as needed within Elexicon Energy's service area over the subsequent winter months. To initiate ICM funding in 2022 is appropriate.

B. Milestone Payments

53. VECC notes that Elexicon provided the payment milestones agreed to by Hydro One including payments already made in 2023 ($243,500) and 2024 ($2,034,500). VECC argues that given that the payments made to Hydro One have already been funded through Elexicon's 2023 and 2024 capital budgets, VECC submits that the ICM amount should be reduced by $2,278,000.37 for Belleville DESN 2.[42]

54. The full cost of the Belleville DESN 2 should be approved for recovery. Rate funding is provided when assets are put into service, not in the years when capital was expensed. This is consistent with the Whitby Smart Grid project approved by the OEB in EB-2022-0024 in which capital costs were incurred over multiple years but ICM recovery was for the full amount that was placed in service. For clarity, When Elexicon stated that $2.3M was funded through its capital budget, it was stating that the costs were financed up-front (e.g. through debt) not that they were funded through rates.[43]

C. Inaccurate Facts

55. CCMBC makes several inaccurate statements that will be briefly responded to as follows:

56. *Elexicon does not need the money*: It is not unusual for utilities to finance long lead items until they are incorporated into rate base. Just because Elexicon can temporarily finance equipment for a short period of time does not mean that it does not need the rate funding when the equipment goes into service.

57. *Elexicon's main concern should be the impact on ratepayers, not shareholders*: Elexicon has difficulty reconciling CCMBC's statement that the amounts proposed for disposition seem reasonable, yet Elexicon is acting in its own interest. Elexicon is acting in the best interests of the customer by (1) avoiding another year of carrying charges; and (2) smoothing rates by avoiding layering this disposition request on top of the cost of service.

[41] EB-2021-0015, Decision and Rate Order, December 16 2021, at page 20.
[42] VECC Submission pg. 7.
[43] IR Response Staff-24(a)

58. *ICM funding request should be reduced*: CCMBC erroneously argues that ICM funding should be reduced on the basis that no reprioritization of capital projects occurred to accommodate the ICM projects and the DSP was inaccurate. Neither of these arguments are factually true. As stated in paragraph 7, Elexicon has prioritized its investments to balance the various drivers of investment need in its service territory. The System Service and General Plant investment categories are both at levels of investment below the historical average due to the need to balance increasing need for mandatory customer-driven System Access investments.

VI. DEFERRAL AND VARIANCE ACCOUNTS

A. Account 1508 – Getting Ontario Connected Act (GOCA) variance account

Disposition

59. Without citing any supporting evidence, OEB Staff submitted that the requested balance of $815,729 does not represent an unmanageable balance for Elexicon and disposition should be postponed to Elexicon's next rebasing application. Elexicon does not agree with OEB Staff that deferral of disposition to the next rebasing will allow for a more holistic and transparent review of all locate-related costs and program impacts than what is being assessed by the OEB in this Application. Locate activities are distinct for the other areas of a distributor's business with very different drivers. OEB staff has provided no rationale for why they would benefit from holistic review.

60. The operative word in Decision and Order EB-2023-0143 of whether the GOCA can be disposed of during an IRM year is whether the account balance is "unmanageable".[44] The OEB decision did not provide an interpretation of what "unmanageable" means in this context, but the Oxford Learner's Dictionaries defines it as "difficult or impossible to control or deal with". However, it is Elexicon's understanding that this finding is made in the context of a distributor seeking to dispose of only the GOCA account during the IRM period.

61. Elexicon is not seeking to only recover the costs in the GOCA account. Rather, Elexicon is pursuing disposition of its overall Group 2 balances as a group consistent with the OEB's policy (with the exceptions noted in the application). Whether the individual balance in the GOCA is "unmanageable" is irrelevant in this context. Elexicon is seeking disposition of about $15.2M in overall Group 2 balances.

62. Finally, postponement of disposition for an additional 2 years not only creates additional financial difficulty, but compounds carrying charges, and intergenerational inequity concerns about GOCA amounts incurred by ratepayers in 2023 and 2024 being paid by future ratepayers. Elexicon also submits that deferral of disposition does not meet the goal of achieving regulatory efficiency as this will result in unnecessary

[44] Decision and Order EB-2023-0143, Getting Ontario Connected Act Variance Account, October 31, 2023, pg. 7.

rework and duplication of OEB processes when the application is submitted a second time.

Balances

63. CCC submits that three reductions are necessary with respect to the balance in the GOCA variance account: (1) supervisory costs should be eliminated because they have been previously rejected by the OEB; (2) deny the recovery of administrative costs because they have been previously rejected by the OEB; (3) the 2023 baseline locate costs should be derived based on the 2022 costs included in rates and escalated by the actual increase in costs per locate experienced between 2021 and 2022 (i.e., approx. 7.8%). CCC noted that the total incremental supervisory and administrative costs in respect of (1) and (2) reflected in the GOCA variance account balance is $65k.[45] The overall result of CCC's submission with respect to the GOCA variance account is a reduction of $178k (plus interest) relative to the proposed principal balance of $766k (plus interest).[46] SEC supports CCC's submission on the GOCA Variance Account.[47]

64. Regarding requests (1) and (2) above, CCC cites a recent Enbridge decision (EB-2024-0125) for the proposition that supervisory and administrative costs predate Bill 93 and therefore should not be recoverable in the GOCA variance account. Respectfully, a careful reading of this decision reveals there was insufficient evidence in the Enbridge case to demonstrate the incremental VMS program costs were a direct result of Bill 93.[48]

65. Elexicon rejects CCC's arbitrary distinction between costs predating Bill 93: incremental supervisory and administrative costs are excluded, yet incremental locate costs, which also predate Bill 93, are deemed recoverable. This is clearly not the intention of the GOCA variance account. Instead, the correct test, as stated in the accounting order, is whether recorded amounts in the GOCA variance account are both incremental to base rates and are a direct result of Bill 93.[49]

66. Elexicon provided sufficient evidence to clearly draw the linkage between the proclamation of GOCA and the incremental costs Elexicon incurred and recorded in the GOCA variance account to respond to the legislative changes the OEB recognized in Decision and Order EB-2023-0143. The detailed reasons and evidence demonstrating how Elexicon met the test in the GOCA variance accounting order are found in Appendix D of the Application at section 4.6 and interrogatory responses 1-STAFF-13 and SEC-17.

67. CCC mischaracterizes the nature of the costs disallowed in the Enbridge decision and Elexicon's "Incremental Internal Labour". In the Enbridge decision, the OEB denied

[45] CCC Submission at pg. 6; IR Response 1-Staff-13(a).
[46] CCC Submission at pg. 8.
[47] SEC Submission at pg. 7.
[48] Decision and Order EB-2024-0125, September 23, 2025, at pg. 7.
[49] Decision and Order EB-2023-0143, October 31, 2023, Schedule A.

recovery of vital main standby costs ("**VMS**"). VMS related to a discrete situation where locate service providers personnel would attend and provide supervision and oversight at the excavation site where the excavations take place within the vicinity of vital natural gas infrastructure in the public right of way. These were senior locators who ensured proper procedures and safety controls are followed throughout the excavation process.

68. The Enbridge situation is entirely different from the costs being claimed by Elexicon here. Elexicon's costs pertain to a supervisor responsible for ensuring that locate services across its entire portfolio are delivered in compliance with GOCA. These functions include monitoring locate requests, field and record support, audit and quality assurance, vendor management, and damage response coordination, among other responsibilities. These are critical areas of support directly related to locates and distinct from the responsibilities of supervisors in Enbridge's VMS program.

69. Elexicon submits that both supervisory and administrative costs claimed in the GOCA account are incremental to base rates and a direct result of the more stringent requirements under Bill 93.

70. Regarding request (3) above, Elexicon does not agree with the proposed methodology or the reasoning that costs would not have risen until the administrative penalty regime was in place. Elexicon was required by law to comply with the provisions of GOCA in April 2022. It is irrelevant whether the administrative penalty regime was not in place until April 2024. Elexicon's compliance obligation arose in April 2022. GOCA also included other changes unrelated to the administrative penalty regime which were in place in 2022 that drove increases in costs. For example, GOCA included a provision which allowed excavators to seek compensation against a locator for losses under certain conditions which increased the liability exposure of locators and increased fees for service providers. Elexicon disagrees with CCC. It is, in fact, reasonable to conclude that the increase in costs from 2021 to 2022 was driven by Bill 93 as locate service providers and utilities adjusted their costs to reflect new requirements.

71. As stated in the accounting order, the GOCA variance account will track variances between actual locate costs (including the impact related to Bill 93 and ongoing costs not related to Bill 93), and locate costs approved in its last COS applications, increased each year from 2010/2014 to 2024 by the IRM inflation rate less the stretch factor.[50] Elexicon's base rates were last rebased in 2014 for Veridian RZ and 2011 for Whitby RZ. Elexicon's base rates have only been adjusted by the IRM rate since rebasing, as shown in Table 4.14 of Appendix D in the Application. Elexicon has absorbed a portion of the Bill 93 costs, up to the amount determined to be in rates, with the impact of Bill 93 described in 1-Staff-13, as shown in Table 4.15 in SEC-17(d).

72. Elexicon does not agree that cherry picking a single year to escalate rates by 7.8% properly reflects its base rates for the purposes of the GOCA variance account.

[50] IR Response SEC-17(d).

Elexicon's IRM rates are determined not by actual costs, but by the OEB's inflationary indices, adjusted for distributor specific efficiency as per the accounting order.

B. Account 1508 – Sub-account Collection of Accounts Variance-Veridian Rate Zone

73. OEB Staff submits that the 2019 principal debit balance of $1,143,711 (annual cap) should be reduced by 50% reflecting only half of the annual cap for the July–December 2019 period that should be recorded in the account. This appears to be intended to reflect an effective date of July 1, 2019 in the notice.[51]

74. In SEC-16, Elexicon detailed why the requested amount, including 2019, was reasonable. The Collection of Account Charge was intended to cover the field costs, or part of the costs, of additional collection activities that are beyond the routine of a distributor as a result of an individual customer's non-payment of their account. The OEB eliminated this charge as it believed that customers who have difficulty paying their bills will have difficulty paying this charge in addition to late payment charges and that the application of this charge may result in an increase in customer arrears to a point that may be unmanageable.[52] The OEB granted the Account 1508 – Sub-account Collection of Accounts Variance-Veridian Rate Zone to record the lost revenues resulting from the elimination of the Collection of Account charge.[53]

75. The OEB has stated that only the lost revenues associated with administering the Collection of Account charge should be recovered in this deferral account.[54] This is exactly what Elexicon has done here when it subtracted the actual revenue from the Collection of Account charge in 2019 ($111,857) from the amount approved in rates ($1,143,711). Dividing the amount of $1,031,854 ($1,143,711-$111,857) by a further 50%, as proposed by OEB Staff, no longer represents the lost revenues associated with elimination of the Collection of Account charge but instead represents an <u>under-recovery</u> of the actual lost revenues.

76. Elexicon's approach has been accepted by the OEB in both EB-2019-0031 Energy+'s *Partial Decision and Interim Rate Order* dated January 2, 2020 and EB-2019-0022 Brantford Power Inc's *Partial Decision and Interim Rate Order* dated January 2, 2020. The OEB stated the following in Brantford Power's case:

> The amount to be recorded in the account each year shall be $440,889, the revenue offset amount approved in Brantford Power's last cost of service application. **<u>For 2019, the amount to be recorded will be net of any revenue collected in 2019 for the charge before it was eliminated</u>**. The OEB recognizes that this amount was a forecast and the actual revenue may have been different. However, the OEB has

[51] OEB Staff Submission at pg. 4.
[52] EB-2017-0183, Notice of Proposal to Amend a Code, December 2018, at pgs. 34-35.
[53] Decision and Rate Order EB-2019-0252, April 16, 2020, at pg. 13.
[54] EB-2019-0018 Partial Decision and Interim Rate Order, Alectra Utilities Corporation, December 12, 2019, at pg. 29.

> considered the regulatory efficiency of recording a known amount, and the OEB acknowledges that the number of times the charge was applied may have been affected by the requirement to change customer service collection practices mandated by the OEB. For Brantford Power, this effect is evident from the significant decline in revenue from the charge in 2017 and 2018. [Emphasis added]

77. Elexicon submits that the amount of $1,031,854 represents the actual lost revenues that resulted from the elimination of the Collection of Account charge and the OEB should approve disposition of this amount.

C. Account 1508 – Sub Account – Estimated Useful Lives Variance Account – Whitby Rate Zone and Account 1575 – IFRS-CGAAP Transitional PP&E Amounts – Veridian Rate Zone

78. OEB Staff submits that these two accounts should be disposed at the next rebasing so the balance and the continuity schedule of the account can be reviewed and assessed in full. Elexicon does not agree this is sufficient rationale to postpone the disposition of these accounts to 2029. Elexicon submits the record has been sufficiently established in this proceeding to dispose of the recorded amounts on an interim basis.

79. OEB Staff did not identify any deficiencies in Elexicon's evidence, nor was it indicated how Elexicon failed to substantiate the amounts recorded in this account. Disposition on an interim basis presents a balanced approach that will protect ratepayers by:[55]

    a. smoothing of rates over multiple years;

    b. avoiding continuing the accumulation of carrying charges;

    c. addressing intergenerational inequity concerns sooner, especially since the balances in 1575 have been accumulating since 2014;

    d. narrowing the scope of and reducing complexity in Elexicon's next rebasing proceeding; and

    e. aligns the Group 2 accounts across rate zones given that Veridian RZ was last disposed in 2014 and Whitby RZ in 2018 in anticipation of rate harmonization at rebasing.

80. As per the filing requirements, at rebasing Elexicon will provide full MIFRS disclosures, including depreciation schedules and accounting policy changes. The implementation of IFRS will be reviewed and assessed in full. Disposition on an interim basis would still allow for the assessment of the prudence of the balances recorded in these accounts in a future proceeding when Elexicon requests disposition on a final basis.[56]

[55] IR Response 1-Staff-8(b).
[56] IR Response 1-Staff-8(a).

The OEB has previously permitted the interim disposition of Group 2 accounts, pending a cost of service review.[57]

81. With respect to Account 1508 – Sub Account – Estimated Useful Lives Variance Account – Whitby Rate Zone, the entries in this account are unlikely to materially change at rebasing when the account will be disposed on a final basis. This account applies only to assets in service at the time of the merger and does not extend to assets added to rate base afterward. At rebasing, Elexicon will provide fixed asset schedules for the merged utility.

82. Extending the period for disposing of these amounts would be inconsistent with the principle of intergenerational equity, as it would defer recovery of costs long after they were incurred, unfairly burdening future ratepayers. This is especially true in the case of Account 1575, which goes back to 2014. Elexicon also submits that deferral of disposition does not meet the goal of achieving regulatory efficiency as this will result in unnecessary rework and duplication of OEB processes when the application is submitted a second time.

D. Disposition Periods

83. SEC proposes that Account 1575 be disposed over four years to mitigate the significant distribution impacts in the Veridian RZ. Elexicon does not agree this proposal is in the interest of ratepayers.

84. Elexicon is permitted in the *Accounting Procedures Handbook For Electricity Distributors* to include the return on rate base when disposing of Account 1575.[58] Elexicon calculated this amount to be $331,010 over one year.[59] If Account 1575 is disposed of over four years, as proposed by SEC, customers will incur a return on rate base of $1,234,040. This results in an additional $993,030 paid by ratepayers compared to a one-year disposal. In the examples provided in footnote 33 of SEC's submission, a four-year disposition period did not harm ratepayers because those cases involved refunds, unlike the current situation, which involves collections.

85. CCMBC proposes that the balances in all DVA accounts should be disposed over two years. Elexicon does not agree this is appropriate as the default position is disposition of DVA account balances over one year as was done in prior cases.[60]

VII. <u>CLOSING</u>

86. The ICM investments are urgently needed because they involve replacing assets with a high risk of failure, as well as investing in assets necessary to address immediate capacity constraints and accommodate additional load growth. These mandatory

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[57] See EB-2015-0113/EB-2015-0251, EB-2016-0114, and EB-2018-0079.
[58] Accounting Procedures Handbook For Electricity Distributors, December 2011, pg. 34.
[59] Application, Appendix D at pg. 56.
[60] For example see EB-2024-0309, EB-2022-0040, EB-2017-0292/EB-2017-0292; Chapter 2 Filing Requirements at pg. 60.

investments justify incremental funding to ensure Elexicon can continue to serve its customers and meet its obligations.[61]

87. Group 2 disposition as proposed in this IRM application confers a number of benefits to ratepayers, including: (1) smoothing of rates over multiple years and reducing bill impacts; (2) aligns with the OEB's *Handbook to Electricity Distributor and Transmitter Consolidations* by dealing with intergenerational equity concerns sooner given the accumulation of significant account balances during the deferred rebasing period since the MAADs application was approved by the OEB in December 2018; (3) narrowing the scope of Elexicon's next COS proceeding by disposing the historical Group 2 account balances now; (4) aligns the Group 2 accounts across rate zones given that Veridian RZ was last disposed in 2014 and Whitby RZ in 2018 and (5) avoids continued accumulation of carrying charges.

88. As discussed in IR response CCC-2, disposing of Group 2 accounts prior to rebasing over one year more effectively manages rate changes for customers over time.

89. In closing, total bill impacts are below the OEB's threshold for mitigation and are reasonable, as shown in CCC-3. The OEB should approve the application as filed as it results in just and reasonable rates.

All of which is respectfully submitted this 4th day of November, 2025.

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[61] Application, Appendix A, para. 33.