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

BY EMAIL

November 5, 2025

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

Dear Ritchie Murray:

Re: Ontario Energy Board (OEB) Staff Submission
E.L.K. Energy Inc. (E.L.K. Energy)
2025 Distribution Rate Application – Phase 2
OEB File Number: EB-2024-0015

Please find attached OEB staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 7. This document is also being forwarded to E.L.K. Energy and intervenors.

Yours truly,

Harshleen Kaur

Digitally signed by Harshleen Kaur
Date: 2025.11.05 16:58:35 -05'00'

Harshleen Kaur
Advisor, Incentive Rate-setting

Encl.

cc: All parties in EB-2024-0015

ONTARIO ENERGY BOARD

OEB Staff Submission

E.L.K. Energy Inc.

Application for 2025 Rates – Phase 2

EB-2024-0015

November 5, 2025

Introduction

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

In its Partial Decision and Order – Phase 1 issued on August 28, 2025, the OEB directed E.L.K. Energy to file a draft rate order (DRO) to reflect the findings of the Partial Decision and Order and to include its proposal to collect the forgone revenue over a 12-month period. E.L.K. Energy filed the DRO and supporting Rate Generator Model and calculation of the forgone revenue rate-rider on September 5, 2025. In its Procedural Order No. 6, the OEB marked the beginning of Phase 2 of the proceeding and established an Issues Day for parties, including OEB staff, to discuss and clarify any outstanding issues.

During the Issues Day held on October 2, 2025, OEB staff requested E.L.K. Energy to bifurcate the forgone revenue rate-riders into fixed and variable. E.L.K. Energy filed updated calculations for the rate-riders and Rate Generator Model on October 9, 2025.

As part of Phase 2 of the proceeding, and in accordance with Procedural Order No. 7, dated October 17, 2025, OEB staff's submission addresses the remaining issues of E.L.K. Energy's application. In preparing this submission, OEB staff has taken into consideration the Independent Electricity System Operator's (IESO) letter dated October 27, 2025, along with E.L.K. Energy's evidence filed on October 9, 2025.

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

- Recovery of Forgone Revenue Request
- Disposition of remaining Group 1 DVA Balances (Accounts 1550, 1588 and 1589)
- Proposed Settlement Adjustments with the IESO

Recovery of Forgone Revenue Request

<u>Background</u>

E.L.K. Energy is requesting approval to recover the forgone revenue from May 1, 2025 (when E.L.K. Energy's 2024 rates became interim) and the implementation date of October 1, 2025 as approved by the OEB on August 28, 2025. On October 9, 2025, E.L.K. Energy provided an updated Rate Generator Model and a supporting Excel spreadsheet with the calculations for forgone revenue rate-riders. E.L.K. Energy noted the time period for recovery of the forgone revenue as 12 months (i.e., recovery from October 2025 to September 2026).

To calculate the forgone revenue rate rider for distribution revenue, E.L.K. Energy used the implementation date of October 1, 2025, and applied a 12/5 factor (12 months of incremental revenue to be recovered over five months) as rates were declared interim effective May 1, 2025.

Submission

OEB staff does not object to E.L.K. Energy's request for approval to recover forgone revenue as its rates were declared interim by the OEB, effective May 1, 2025.

In reviewing E.L.K. Energy's updated Rate Generator Model and supporting Excel spreadsheet containing the calculations for the forgone revenue rate rider, OEB staff submits that there are no issues with E.L.K. Energy's calculation of the forgone revenue rate rider for the distribution revenue.

Disposition of Remaining Group 1 DVA Balances (Accounts 1550, 1588 and 1589)

Background

E.L.K. Energy is requesting the disposition of the balances in its remaining Group 1 DVAs to the end of December 31, 2023, with a total credit balance of $5,823,280 (including the actual interest to April 30, 2025). The total disposition balance exceeds the OEB's $0.001/kWh threshold for disposition and is comprised of the following:

- *Account 1550:* a debit amount of $1,251,617, pertains to variances accumulated during the 2021 to 2023 period.
- *Accounts 1588 and 1589:* credits of $3,626,836 and $3,448,061, respectively, pertain to variances accumulated during the 2016 to 2023 period.

These Group 1 DVAs are proposed to be disposed of on a final basis over 48 months to support E.L.K. Energy's operational cashflow and mitigate negative impacts on E.L.K. Energy's financial viability.[1] [2]

The OEB most recently approved the final disposition of E.L.K. Energy's Account 1550 balance, as of December 31, 2020, as part of E.L.K. Energy's 2022 Cost of Service

[1] E.L.K. Energy's Letter Re: Updated Incentive Rate-Setting Mechanism Model, August 8, 2025
[2] Manager's Summary, p. 30

proceeding.[3] The OEB most recently approved the final disposition of E.L.K. Energy's Accounts 1588 and 1589 balances, as of December 31, 2015, as part of the same 2022 proceeding.[4]

E.L.K. Energy requested the bifurcation of this proceeding in a letter to the OEB dated June 16, 2025, seeking to separate Accounts 1588 and 1589 due to ongoing investigation of the discrepancies in these accounts related to the cost of power underbilling that was previously assumed to be attributable to Hydro One Networks Inc. (HONI).

OEB staff submitted that, in addition to Accounts 1588 and 1589, Account 1550 should also be excluded from E.L.K. Energy's requested disposition of its December 31, 2023 Group 1 DVAs, given the potential impact from the investigation in Accounts 1588 and 1589 may have had on Account 1550. This is because the proposed retroactive adjustment embedded in the disposition balance of Account 1550, related to misclassification of Low Voltage (LV) charge, consists of a credit $381,033 to Account 1550, offset by a debit of $59,645 to Account 1588, and a debit of $321,388 to Account 1589. Furthermore, OEB staff recommended E.L.K. Energy either provide updated comments on the four factors outlined in the OEB guidance letter issued on October 31, 2019 (2019 Letter), pertaining to the proposed retroactive adjustments in Account 1550, in its reply submission, or confirm that the original comments are still applicable.[5]

School Energy Coalition (SEC) submitted that the OEB should not allow E.L.K. Energy's proposed adjustment to Account 1550 to hold E.L.K. Energy accountable for significant past accounting errors.[6]

In its reply submission, E.L.K. Energy supported OEB staff's submission to defer the disposition of Account 1550 and confirmed its original comments on the four factors for justifying the retroactive adjustment. Furthermore, E.L.K. Energy noted that the retroactive corrections were brought forward promptly, with management prioritizing the investigation, consulting with HONI and the IESO on multiple occasions, and engaging an external consultant to expedite the work. [7]

Following the completion of its review, E.L.K. Energy filed another letter on July 31, 2025, confirming its investigation into the potential cause of unbilled cost of power reflected in Accounts 1588 and 1589 for the years 2017 through 2019. The review

[3] EB-2021-0016, Settlement Proposal, Table 4.2A, Decision and Rate Order, June 30, 2022
[4] *Ibid.*
[5] OEB Staff Submission, July 10, 2025
[6] SEC Submissions, July 10, 2025
[7] E.L.K. Energy Reply Submission, July 24, 2025

involved a detailed internal investigation and engaged with HONI, the IESO and its Metering Service Provider. No errors were identified in the balances requested for disposition in Accounts 1550, 1588 and 1589. As a result, E.L.K. Energy proposed to continue the following requests:

- An Order disposing of Accounts 1588 and 1589 balances for the 2016 – 2023 years, with disposition period of not less than four years
- An Order disposing of Account 1550 balance as at 2023
- An Order enabling the collection of the $2.8 million in under-recovery by E.L.K Energy from the IESO, in accordance with section 36.1.1(7)(b) of the *Electricity Act, 1998*.

In a subsequent letter filed on September 22, 2025, E.L.K. Energy provided an updated Global Adjustment (GA) Analysis Workform. E.L.K. Energy stated that the cumulative combined transactions and principal adjustments in Account 1588 for the years 2016 to 2023 represent a significant balance, with annual discrepancies in seven out of the eight years exceeding the 1% reasonability test benefiting ratepayers. E.L.K. Energy noted that, although investigations with HONI and the IESO confirmed unbilled power was not the cause of the discrepancies in Account 1588, the discrepancies remain unresolved. Furthermore, given that the account balance was reconstructed as a result of an external audit, E.L.K. Energy was unable to provide detailed itemized explanations for the years where the Account 1588 balance exceeds the 1% reasonability threshold.

Submission

OEB staff submits that E.L.K. Energy's requested disposition of its December 31, 2023, remaining Group 1 DVAs should be granted. OEB staff has reviewed the proposed Accounts 1550, 1588 and 1589 balances, and supporting evidence substantiating these balances, and notes that the proposed disposition balances reflect reconstructed balances based on the comprehensive internal review and the external audit review.

The total disposition balance for Accounts 1550, 1588 and 1589 as of December 31, 2023, is a credit amount of $5,823,280, including actual interest accrued to April 30, 2025.

OEB staff has no concerns regarding the 48-month disposition period. This proposed disposition period alleviates the potential strain on E.L.K. Energy's operational cashflow. OEB staff recognizes that the undisposed credit balances in Accounts 1550, 1588 and 1589 have accumulated for four to eight years. The impact on E.L.K. Energy's operational cashflow will be significant given the utility was already in breach of its debt covenants.[8] Should the OEB approve the disposition of these accounts, OEB staff

[8] Manger's Summary, p. 30

submits that the proposed effective and implementation date for the rate riders be January 1, 2026. This approach will help ensure a smooth and efficient process, while also preventing the need to establish additional rate riders to recover forgone revenue. In the event E.L.K. Energy disagrees with this proposed effective date, OEB staff invites E.L.K. Energy to provide an alternative proposal, with reasoning, in its reply submission.

OEB staff provides further detailed submissions on Accounts 1588, 1589 and 1550 in the sections below:

Accounts 1588 and 1589

OEB staff accepts the updated balances for Accounts 1588 and 1589. OEB staff recognizes the variances between the updated balances reported in the 2025 Rate Generator Model and the reconstructed balances provided by E.L.K. Energy's external auditor (KPMG) are directly attributable to subsequent event adjustments, as outlined in Table 2 of OEB staff's submission filed on July 10, 2025. OEB staff notes that the cumulative post-audit adjustments to Accounts 1588 and 1589 (a debit of $48,000 to Account 1588 and a credit of $27,000 to Account 1589) are not material.

OEB staff further notes that the cumulative balance in Account 1588 for the years 2016 to 2023 represents negative 3.5% of the total cost of power purchased during the same period. OEB staff acknowledges the difficulties E.L.K. Energy has encountered in identifying discrepancies within the reconstructed balance. If disposition is approved on a final basis as requested, E.L.K. Energy is reminded that any future adjustment would be considered based on the requirements set out in the 2019 Letter.

Account 1550

OEB staff accepts the proposed disposition balance of $1,251,617 for Account 1550, including the retroactive credit adjustment of $381,033 related to the misclassification of LV charges. This proposed retroactive credit adjustment to Account 1550, is offset by corresponding debits of $59,645 to Account 1588, and $321,388 to Account 1589.[9]

In its submission filed on July 10, 2025, OEB staff noted that although there were no concerns with the disposition balance in Account 1550, there was uncertainty regarding the potential impact of the investigation of Accounts 1588 and 1589 on the proposed retroactive adjustments to Account 1550. However, following E.L.K. Energy's investigation, no further errors or corrections were identified. Given this outcome and the interrelationship among the accounts and the OEB's asymmetrical approach, OEB staff supports E.L.K. Energy's request for a retroactive adjustment embedded in the disposition balance of Account 1550.

[9] Interrogatory Responses, Supplemental Staff-6 d), May 2, 2025

In its 2019 Letter, the OEB stated (in part):

> Where an accounting or other error is discovered after the balance in one of the above-listed variance accounts has been cleared by a final order of the OEB, the OEB will determine on a case-by-case basis whether to make a retroactive adjustment based on the particular circumstances of each case, including factors such as:
>
> - whether the error was within the control of the distributor
> - the frequency with which the distributor has made the same error
> - failure to follow guidance provided by the OEB
> - the degree to which other distributors are making similar errors
>
> Consistent with the OEB's past practice, an asymmetrical approach to the correction of the error may be appropriate. For example, if a distributor repeats an error, and if correcting the error is solely to the benefit of the distributor, the OEB may not approve part or all of the correction and of any associated carrying charges.

In this case, E.L.K. Energy claimed that the error was not within its control and it was not the first time that it had made an error of this kind. However, the incorrect entries were attributed to staff training and leadership oversight issues. E.L.K. Energy further indicated that it is unaware of whether other distributors have encountered the same specific error related to the misclassification of LV charges. [10][11]

OEB staff is of the view that the error was within E.L.K. Energy's control, as the commodity and GA amounts could have been recorded in the correct accounts rather than Account 1550 by following OEB's Accounting Guidance. E.L.K. Energy acknowledged that this was not the first occurrence of such an error. While E.L.K. Energy has taken steps to address the underlying issue that led to the deviation from the OEB Accounting Guidance, OEB staff's assessment of the four factors generally weighs against supporting the requested retroactive adjustment. However, OEB staff supports the proposed retroactive adjustment, as the credit adjustment of $381,033 to Account 1550 represents a refund to ratepayers through the DVA rate rider who were not at fault for the error made by E.L.K. Energy in this circumstance.

Proposed Settlement Adjustments with the IESO

<u>Background</u>

Section 36.1.1 of the *Electricity Act, 1998*, which sets out a two-year limitation period for

[10] Interrogatory Responses, Staff -14 c), January 27, 2025
[11] E.L.K. Energy Reply Submission, July 24, 2025

certain IESO settlements, was proclaimed into force on January 1, 2022. The limitation period only applies to settlements that have been prescribed by regulation.

On July 1, 2023, a Limitation Periods Regulation (Ontario Regulation 153/23) was made under the *Electricity Act, 1998.* That regulation specifies the types of settlements that are captured by the two-year limitation period. The list includes settlements in respect of the GA, but not in respect of the Regulated Price Plan (RPP) and Feed-in Tariff (FIT) Contracts.[12] On October 27, 2025, the IESO filed a Letter of Comment with the OEB confirming that the two-year limitation period does not extend to either the RPP or the FIT programs.

Section 36.1.1 of the *Electricity Act, 1998* also provides the OEB with the ability to require the resettlement of matters falling outside the two-year limitation period. In particular, subsection (7) (b) states:

> (7) Despite subsection (1), the IESO shall not be restricted from making or receiving any payment or adjustment of any amount to or from a market participant, a consumer, an entity or a person in respect of an entitlement or a specified charge to which that subsection applies where such payment or adjustment results from,
>
> > (b) a decision, an order or a direction of the Board in respect of a variance account;

In this application,[13] E.L.K. Energy requests an OEB order enabling the collection of a total of $2.8 million in under-recovery from the IESO, in accordance with section 36.1.1(7)(b) of the *Electricity Act, 1998*, since the associated invoices for payment, adjustment or amount were issued by the IESO more than 24 months ago. E.L.K. Energy states that the proposed settlement adjustments with the IESO, identified during its internal review and the KPMG audit process, consist of the following three types of settlement adjustments:[14]

- RPP True Up Adjustments: RPP submissions to the IESO for the years 2016 – 2023 were recalculated by following the OEB's Accounting Guidance and resulted in a total of $3.8 million under-recovery to be collected from the IESO
- FIT Contracts Adjustments: Corrections related to FIT renewable contracts settlements which resulted in a total of $1.2 million over-recovery for the years 2016 – 2023 be paid to the IESO

[12] At the same time, a two-year limitation period was added to the Global Adjustment Regulation (O. Reg. 429/04, section 23). It provides that in the event of a conflict with a limitation period under section 36.1.1 of the *Electricity Act, 1998*, the longer limitation period prevails.
[13] Manager's Summary, 3.3.2.1, p. 18
[14] *Ibid*. Footnote 18

- Class A Volumes Adjustments: Corrections related to Class A Volumes resulted in $0.2 million under-recovery for the years 2017 - 2023 to be collected from the IESO

In its response to interrogatories,[15] E.L.K. Energy acknowledged that the RPP true-up adjustments are excepted from the two-year limitation window set in the regulation. However, E.L.K. Energy submitted that the three adjustments should be made with the IESO at the same time. E.L.K. Energy also confirmed that its customers will be kept whole, as the proposed IESO adjustments are already reflected in the reconstructed balances for Accounts 1588 and 1589 proposed for disposition, irrespective of the OEB's Decision on the proposed settlement adjustments. It further highlighted that disallowing these settlement adjustments would have a detrimental impact on its cashflow and pose a risk to its financial viability.[16]

In its response to supplemental interrogatories,[17] E.L.K. Energy stated that the requested amount of $2.8 million from the IESO is approximately 78% of its 2022 approved base revenue requirement. E.L.K. Energy noted its reported ROE for 2022 and 2023 was a negative 1.97% and a negative 22.33%, respectively. E.L.K. Energy further stated that "Ratepayers across Ontario unjustly benefitted from the under-recovery by [E.L.K. Energy] from the IESO, particularly when [E.L.K. Energy] is encountering significant financial difficulties." E.L.K. Energy indicated that if the OEB does not grant an Order directing the IESO to accept E.L.K. Energy's out-of-period adjustments, E.L.K. Energy will review the OEB's Decision and Order in its entirety and determine the best course of action for the utility at that time.

E.L.K. Energy provided comments regarding the adjustments underpinning the requested OEB Order and the four factors outlined in the OEB Letter issued in October 2019 regarding rate retroactivity.[18] The comments centered on the following:

- The errors made in the settlement process with the IESO were within E.L.K. Energy's control.
- The errors are not recurring as these errors occurred during a period when E.L.K. Energy experienced significant accounting staff constraints and turnover.
- E.L.K. Energy's settlement with the IESO was not consistent with the OEB Accounting Guidance.
- The errors do appear to be a widespread issue with other LDCs.

[15] Interrogatory Responses, Staff-11 d), January 27, 2025
[16] Interrogatory Responses, Staff-11 g), January 27, 2025
[17] Interrogatory Responses, Supplemental Staff-5 d), May 2, 2025
[18] Interrogatory Responses, Staff-11 f), January 27, 2025

Submission

OEB staff submits that the three types of settlement adjustments E.L.K. Energy is proposing should be addressed separately, based on the nature of each adjustment.

Consistent with the approach used by the IESO, OEB staff's view is that neither the RPP true-up adjustment nor the FIT Contracts adjustment is subject to the limitation period set out in Ontario Regulation 153/23. OEB staff notes that the RPP true-up adjustment is not listed in section 2(b) of Ontario Regulation 153/23. Moreover, the OEB has previously stated that the limitation period does not apply in respect of RPP.[19]

With respect to the FIT Contracts adjustment, OEB staff notes the liability/entitlement for these amounts derives from the contract itself not a statute or regulation. Moreover, FIT contracts are procurement contracts entered into pursuant to section 25.32 of the *Electricity Act, 1998*. That section is not listed in section 2(b) of Ontario Regulation 153/23.

As a result, OEB staff is of the view that E.L.K. Energy should proceed to settle the adjustments with the IESO as soon as possible, in accordance with the IESO settlement process.

Furthermore, OEB staff does not support granting an exception to the two-year limitation regulation for the proposed Class A adjustments of $0.2 million under-recovery to be collected from the IESO. Applying the four principles listed in the 2019 Letter to the matter at hand, OEB staff submits that they generally weigh against granting E.L.K. Energy's requested relief:

1. E.L.K. Energy was in control of the settlement process with the IESO.
2. The errors are not recurring as these errors occurred during a period when E.L.K. Energy experienced significant accounting staff constraints and turnover.
3. E.L.K. Energy's settlement with the IESO was not consistent with the OEB Accounting Guidance.
4. The exact cause of these types of error might vary among utilities, but other distributors have made similar errors. In Algoma Power Inc.'s 2025 Cost of Service application, similar submission errors related to Class A consumptions were identified.

OEB staff notes this principled approach is consistent with the one adopted in a previous proceeding. In its 2025 Cost of Service application, Algoma Power Inc. (Algoma Power) proposed settlement adjustments to correct out-of-period reporting errors with the IESO related to Class A consumption. In the Final Decision and Order for Algoma Power's 2025 Cost of Service application, the OEB relied on the four factors

[19] EB-2024-0007, Final Decision and Order, p. 4, January 9, 2025

outlined in the 2019 letter and determined that the proposed settlement adjustment did not pose an undue burden on Algoma Power. Further, the OEB found that it would be inappropriate to grant an exception to the limitation period, as Algoma Power did not establish exceptional circumstances to justify such an exception.[20]

While OEB staff acknowledges a case-by-case approach is appropriate for considering these types of requests, it is of the view that applying a similar principled approach would be useful in assessing the request for an OEB order granting an exception to the two-year limitation period. Based on the assessment of the four factors, OEB staff submits that E.L.K. Energy's request for an exception to the limitation period should not be granted.

OEB staff has summarized the impacts included in the disposition balances for Accounts 1588 and 1589 based on the settlement adjustments proposed in E.L.K. Energy's supporting schedule[21] as shown in Table 1 below. This summary is based on OEB staff's assumption that the Commodity referenced in the supporting schedule corresponds to Account 1588, and the GA corresponds to Account 1589.

Table 1: Settlement Adjustments Impacts on Accounts 1588 (Commodity) and 1589 (Global Adjustment)

Description	2016	2017	2018	2019	2020	2021	2022	2023	Total
Commodity: RPP True Up Adjustments	(208,225)	(887,267)	(1,034,595)	90,591	(1,396,405)	(535,612)	360,922	(225,765)	**(3,836,356)**
Commodity: FIT Contracts Adjustments	94,960	87,593	150,974	97,836	89,832	179,219	318,927	143,101	**1,162,442**
A: Total Impacts on Account 1588 (Commodity)	**(113,265)**	**(799,674)**	**(883,622)**	**188,427**	**(1,306,573)**	**(356,392)**	**679,849**	**(82,663)**	**(2,673,913)**
Global Adjustment: FIT Contracts Adjustments	-	101,707	-	-	-	-	-	-	**101,707**
Global Adjustment: Class A Volumes Adjustments	-	(163,736)	8,083	(10,809)	(11,313)	4,123	(2,299)	(17,708)	**(193,661)**
B: Total Impacts on Account 1589 (Global Adjustment)	**-**	**(62,029)**	**8,083**	**(10,809)**	**(11,313)**	**4,123**	**(2,299)**	**(17,708)**	**(91,953)**
A + B: Total Proposed Settlement Adjustments	**$ (113,265)**	**$ (861,703)**	**$ (875,539)**	**$ 177,618**	**$ (1,317,886)**	**$ (352,270)**	**$ 677,550**	**$ (100,372)**	**$ (2,765,867)**

OEB staff has reviewed the supporting evidence of the adjustments made in Accounts 1588 and 1589 and confirms that the settlements between E.L.K. Energy and its customers correctly reflect the results of both internal and external reviews, as well as subsequent event adjustments. The settlements between E.L.K. Energy and its customers will be finalized through the approval of the disposition of these two accounts.

OEB staff notes that although the total proposed settlement adjustment by E.L.K. Energy to the IESO is an under-recovery of $2.8 million to be collected from the IESO, the total out-of-period adjustment that E.L.K. Energy seeks is an under-recovery of $0.2

[20] EB-2024-0007, Final Decision and Order, pp. 3 - 9, January 9, 2025
[21] Interrogatory Responses, Supplemental Staff-1 c), Att 1_1588-1589 Adjustment, May 2, 2025

million to be collected from the IESO. This is because the limitation period does not apply to the RPP true-up and FIT Contracts related settlement adjustment.[22]

In OEB staff's view, E.L.K. Energy's proposed settlement adjustments can be grouped as follows:

1. Adjustments not subject to the limitation period: A credit of $2.6 million, representing an under-recovery to be collected from the IESO. This amount includes the RPP True Up and FIT Contract adjustments.
2. Adjustment subject to the limitation period: A credit of $0.2 million, representing an under-recovery to be collected from the IESO, related to the Class A Volumes adjustment.

For the settlement adjustments that are not subject to the limitation period, OEB staff submits that E.L.K. Energy should contact the IESO and settle the adjustments as soon as possible. OEB staff recognizes the undue burden on E.L.K. Energy's cashflow resulting from the disposition of multiple years of accumulated balances in Accounts 1588 and 1589. OEB staff notes that, once the $2.6 million from the RPP and FIT Contract adjustments is received from the IESO, it would significantly ease the burden on E.L.K. Energy's operational cashflow associated with customer refunds through DVA and GA rate riders.

For the settlement adjustment that falls under the limitation period, OEB staff does not support E.L.K. Energy's request for an exception to the limitation period regulation. OEB staff submits E.L.K. Energy's request for an OEB order should be denied, based on the principled approach and the OEB's decision in a precedent case. However, the credit adjustment of $0.2 million from the Class A consumption adjustment should still be reflected in the requested disposition amounts for Account 1589 as E.L.K. Energy's customers should not bear the cost of E.L.K. Energy's settlement errors.

~All of which is respectfully submitted~

[22] IESO Letter of Comment re. EB-2024-0015 Application of the Two-Year Limitation Period, October 27, 2025