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

DECISION AND ORDER – PHASE 2

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

December 11, 2025

1. OVERVIEW

The Ontario Energy Board (OEB) is approving changes to the rates that E.L.K. Energy Inc. (E.L.K. Energy) charges to distribute electricity to its customers, effective May 1, 2025 with an implementation date of January 1, 2026.

In Procedural Order No. 5, the OEB bifurcated the hearing of the application into two parts. The OEB issued a Partial Decision and Order – Phase 1 on August 28, 2025 addressing the Price Cap IR incentive rate-setting mechanism, disposition of Group 1 deferral and variance account (DVA) balances excluding Accounts 1550, 1588 and 1589, disposition of a Group 2 DVA balance and the settlement proposal filed in the proceeding.

This Decision and Order – Phase 2 addresses Accounts 1550, 1588 and 1589, and forgone revenue.

The OEB approves the proposed balances in Accounts 1550, 1588 and 1589 and the proposed disposition period of 48 months. The OEB finds that E.L.K. Energy has the ability to require settlement with the Independent Electricity System Operator (IESO) of the Regulated Price Plan (RPP) true-up adjustment of $3.8 million to be collected from the IESO and the Feed In Tariff (FIT) contract adjustment of $1.2 million to be paid to the IESO. The OEB does not approve of E.L.K. Energy’s proposal to collect $0.2 million from the IESO to correct Class A volumes that were under-recovered for the years 2017 to 2023. The OEB finds that E.L.K. Energy’s shareholders should pay the cost of the error which are subject to Section 36.1.1 of the *Electricity Act, 1998* and the two-year limitation period for certain IESO settlements.

In addition, the OEB approves E.L.K. Energy’s updated forgone revenue amount and proposed rate riders.

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* (*Filing Requirements for Incentive Rate-Setting Applications*) (Filing Requirements). E.L.K. Energy applied for approval of changes to its electricity distribution rates, effective May 1, 2025, and requested the disposition of its Group 1 DVA balances for the years 2016 to 2023, along with one Group 2 account, over a four-year recovery period.

Notice of the application was issued on November 19, 2024. The School Energy Coalition (SEC), Vulnerable Energy Consumers Coalition (VECC) and the 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. 5, the OEB bifurcated the hearing of issues in this proceeding. Through its Partial Decision and Order on Phase 1, issued on August 28, 2025, the OEB further revised the scope of Phase 2 to address matters relating to Accounts 1550, 1588 and 1589.

In Procedural Order No. 6, the OEB established an Issues Day to provide parties with an opportunity to discuss evidence related to Accounts 1550, 1588 and 1589. E.L.K. Energy was also required to submit an updated Global Adjustment (GA) Analysis Workform. The intervenors from Phase 1 – SEC, VECC, and IESO – were also accepted as intervenors in Phase 2, while SEC and VECC were also granted cost eligibility for Phase 2.

Following the Issues Day, E.L.K. Energy filed additional evidence. The evidence included an updated Rate Generator Model reflecting the Partial Decision and Order, revised forgone revenue rate rider calculations, new rate rider calculations for Accounts 1550, 1588 and 1589 over a 48-month disposition period, and updated responses to interrogatories Staff-12[1] and SEC-2 i).[2]

In Procedural Order No. 7, the OEB requested the IESO file a letter outlining how it applies the two-year limitation period to assist parties in preparing submissions on the

[1] OEB Staff Interrogatories, January 8, 2025
[2] SEC Interrogatories, January 8, 2025

Phase 2 issues. The OEB also established dates for filing submissions. The IESO filed a letter on October 27, 2025, which was added to the record of the proceeding.

On November 5, 2025, SEC, VECC and OEB staff filed submissions. E.L.K. Energy filed its reply submission on November 19, 2025.

3. DECISION OUTLINE

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

- Forgone Revenue
- Disposition of the Remaining Group 1 DVA Balances
- Settlement Adjustments with the IESO

This Decision and Order does not address rates and charges approved by the OEB in prior proceedings, such as specific service charges[3] 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.

[3] 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. FORGONE REVENUE

E.L.K. Energy's rates were declared interim, effective May 1, 2025, pursuant to the Interim Rate Order issued on April 25, 2025. The Partial Decision and Order – Phase 1, issued on August 28, 2025, directed E.L.K. Energy to file a proposal for the recovery of forgone revenue, which it submitted on September 5, 2025. E.L.K. Energy sought to recover forgone revenue for the period from May to September 2025, based on an implementation date of October 1, 2025.

OEB staff, during the Issues Day held on October 2, 2025, requested E.L.K. Energy to separate 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.

In its submission dated November 5, 2025, OEB staff did not object to E.L.K. Energy's request to recover forgone revenue from May to September 2025.

E.L.K. Energy, in its reply submission, requested approval of a revised recovery period of forgone revenue from May to December 2025, to be collected over a 12-month period from a revised implementation date of January 1, 2026. E.L.K. Energy also provided an updated Rate Generator Model and an Excel spreadsheet with the calculations for the forgone revenue.

Findings

In the Phase 1 decision, the OEB approved an effective date for new rates of May 1, 2025 with an implementation date of October 1, 2025. The OEB also approved certain Group 1 DVA balances (excluding Accounts 1550, 1588 and 1589) to be disposed over a 12-month period.[4] The OEB directed E.L.K. Energy to file a draft rate order reflecting the OEB's findings and to propose rate riders to collect the total forgone revenue over a 12-month period.

E.L.K. Energy filed a draft rate order as directed, yet a rate order reflecting the Phase 1 was not approved with an October 1, 2025, implementation date. In its reply submission, E.L.K. Energy proactively filed an updated Rate Generator Model and updated forgone revenue rate riders based on a January 1, 2026, implementation date and 12 month disposition period.

The OEB approves the updated forgone revenue amount for the eight months of May 1, 2025 to December 31, 2025 and the proposed rate riders, in addition to the DVA rate riders approved in the Phase 1 decision. The expiry dates for these rate riders shall be

[4] EB-2024-0015, Partial Decision and Order – Phase 1, August 28, 2025, p. 13.

December 31, 2026, The OEB provides direction on the filing of a draft rate order in the Implementation section of this Decision and Order.[5]

[5] E.L.K. Energy should consult OEB staff to alter or override certain dates in the Rate Generator Model.

5. DISPOSITION OF THE REMAINING GROUP 1 DVA 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.[6] If the net balance does not exceed the threshold, a distributor may still request disposition.[7]

The 2023 year-end net balance for E.L.K. Energy's Accounts 1550, 1588 and 1589 (remaining Group 1 accounts eligible for disposition, inclusive of actual interest up to April 30, 2025), is a credit of $5,823,280. This amount represents a total credit claim of $0.0249 per kWh, which exceeds the disposition threshold.

E.L.K. Energy has requested disposition of the remaining Group 1 DVAs over a 48-month period to support E.L.K. Energy's operational cashflow and mitigate negative impacts on E.L.K. Energy's financial viability from the proposed refund of these balances.[8]

Account 1550 Low Voltage Variance Account

The proposed disposition balance for Account 1550 is a debit amount of $1,251,617, pertaining to variances accumulated during 2021 to 2023. 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 proceeding.[9]

The disposition request for Account 1550 includes a retroactive credit adjustment of $381,033 to correct misclassified commodity and GA amounts during the period of 2016 through 2020. E.L.K. Energy confirmed that the correcting adjustment consists of a $321,388 retroactive credit to Account 1550, offset by debits of $59,645 to Account 1588 and $321,388 to Account 1589, as these commodity and GA amounts were incorrectly recorded as Low Voltage (LV) charges.[10]

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[6] Report of the OEB – "Electricity Distributors' Deferral and Variance Account Review Initiative" (EDDVAR), EB-2008-0046, July 31, 2009
[7] OEB letter, "Update to the Electricity Distributors' Deferral and Variance Account Review ("EDDVAR Report"), released July 2009 (EB-2008-0046)", issued July 25, 2014
[8] E.L.K. Energy's Letter Re: Updated Incentive Rate-Setting Mechanism Model, August 8, 2025; Manager's Summary, p. 30
[9] EB-2021-0016, Settlement Proposal, Table 4.2A, Decision and Rate Order, June 30, 2022
[10] Interrogatory Responses, Supplemental Staff-6 d), May 2, 2025

In the OEB's 2019 Letter,[11] the OEB stated:

> 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:
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> - 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
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> 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.

With respect to the four factors outlined in the OEB's 2019 Letter, E.L.K. Energy confirmed that the error in Account 1550 was beyond its control to rectify as the external audit of Accounts 1588 and 1589 was still on-going at that time. E.L.K. Energy further stated that the same misclassification of LV charges into incorrect accounts had occurred previously, and that the error is inconsistent with the OEB Accounting Guidance. While E.L.K. Energy is not aware of any other distributors that have made similar errors, it noted that distributors frequently encounter challenges related to Accounts 1588 and 1589.[12] [13]

OEB staff submitted that the proposed disposition balance of $1,251,617 for Account 1550, including the retroactive adjustment related to the misclassification of commodity and GA amounts as LV charges, should be granted. OEB staff noted that its assessment of the four factors generally weighs against supporting the requested retroactive adjustment, noting that the error was within E.L.K. Energy's control, the misclassification of the commodity and GA amounts could have been avoided by following OEB's Accounting Guidance, and this was not E.L.K. Energy's first occurrence of such an error. However, OEB staff supported the proposed retroactive adjustment because the credit adjustment represents a refund to ratepayers, who should not be penalized for errors made by E.L.K. Energy.

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[11] OEB 2019 Letter "Adjustments to Correct for Errors in Electricity Distributor 'Pass-Through' Variance Accounts After Disposition", October 31, 2019.
[12] Reply Submission, July 24, 2025, p.5
[13] Interrogatory Responses, Staff -14 c), January 27, 2025

SEC submitted that the requested retroactive adjustment of $381,388 in LV charges as wholesale power purchases should be disallowed, arguing that E.L.K. Energy's significant history of problematic accounting, recordkeeping, and operational practices.

VECC supported OEB staff's position and shared SEC's concerns regarding E.L.K. Energy's history of management and accounting deficiencies, particularly regarding the disposition of Account 1550.

In its reply submission, E.L.K. Energy stated that SEC likely misunderstood the nature of the proposed adjustment to Account 1550, as the initial retroactive adjustment requested was a debit of $381,388, which was corrected during the interrogatory process. E.L.K. Energy confirmed that the corrected proposed retroactive adjustment to Account 1550 is a credit amount of $381,033.

Findings

The OEB approves the proposed Account 1550 balance of $1,251,617, which includes a retroactive credit adjustment of $381,033. The retroactive credit adjustment to Account 1550 is to the benefit of customers, offset by debit entries of $59,645 to Account 1588 and $321,388 to Account 1589.

The OEB considered the retroactive adjustment in the context of OEB's 2019 Letter in which 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

The OEB finds that the error was within E.L.K. Energy's control and it failed to follow OEB guidance. The OEB also finds that E.L.K. Energy had not made that same error before, nor had other distributors, although E.L.K. Energy has made other accounting errors involving DVA entries. While a review of the four factors in the OEB's 2019 Letter is not conclusive, other considerations are important in this case.

Specifically, it is both persuasive to the OEB, and consistent with the OEB's past practice, that the proposed correction of the error should be allowed because it is to the benefit of customers. E.L.K. Energy is not proposing to benefit from correcting an error – an error that was within its control to avoid.

The OEB considered this asymmetrical approach to allowing the retroactive adjustment of $381,033 and finds it to be appropriate. The OEB agrees with OEB staff that customers were not at fault for the error made by E.L.K. Energy; therefore, it is appropriate for customers to receive a credit adjustment to correct the error.

Account 1588 Retail Settlement Variance Account Power and Account 1589 Retail Settlement Variance Account Global Adjustment balances

The proposed disposition balances for Accounts 1588 and 1589 are credits of $3,626,836 and $3,448,061, respectively, pertaining to variances accumulated during 2016 to 2023. 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 E.L.K. Energy's 2022 Cost of Service proceeding.[14] In the same proceeding, E.L.K. Energy agreed to engage an external auditor to review balances in Accounts 1588 and 1589 for the 2016 to 2021 period.[15]

In the 2023 IRM proceeding, the OEB permitted E.L.K. Energy to defer the disposition of the balances in Group 1 DVAs to the 2024 IRM application due to the ongoing external audit of Accounts 1588 and 1589.[16] Subsequently, in its 2024 IRM decision, the OEB approved a further deferral of all Group 1 DVA balances until E.L.K. Energy's next rate application, to allow completion of the external audit of Accounts 1588 and 1589.[17] In this application, E.L.K. Energy confirmed that the external audit of these accounts for the years 2016 to 2023 has been completed.[18]

On June 16, 2025, E.L.K. Energy submitted a letter to the OEB proposing to split this proceeding to consider Accounts 1588 and 1589 separately, as it was conducting an additional review to reconcile the discrepancies in these accounts related to the underbilled cost of power, which was previously assumed to be attributable to Hydro One Networks Inc. (Hydro One).

In its Partial Decision and Order issued on August 28, 2025, the OEB found it appropriate to consider the disposition of Account 1550 in Phase 2, in conjunction with Account 1588 and 1589 balances.[19]

[14] EB-2021-0016, Settlement Proposal, Table 4.2A, Decision and Rate Order, June 30, 2022
[15] EB-2021-0016, Decision and Rate Order, June 30, 2022, p.4
[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] Partial Decision and Order, August 28, 2025, pp. 3-4

Following the completion of its review of Accounts 1588 and 1589, E.L.K. Energy confirmed no errors were identified in the balances requested for disposition in Accounts 1550, 1588 and 1589. The review involved a detailed internal investigation and coordination with Hydro One, the IESO and E.L.K. Energy's Metering Service Provider.[20]

In a letter filed on September 22, 2025, E.L.K. Energy provided an updated GA Analysis Workform showing large recurring annual discrepancies in Account 1588 for the years 2016 to 2023, with seven out of the eight years exceeding the 1% reasonability test[21] in favour of ratepayers. E.L.K. Energy noted that, although Hydro One and the IESO confirmed the variances in Account 1588 were not due to unbilled power, the discrepancies remain unresolved, and E.L.K. Energy was unable to provide itemized explanations because the account balance had been reconstructed through an external audit.

OEB staff accepted the proposed disposition balances for Accounts 1588 and 1589. While acknowledging E.L.K. Energy's challenges in identifying discrepancies, OEB staff noted that the aggregated 2016 to 2023 Account 1588 balance is a credit to ratepayers equivalent to 3.5 % of total cost of power purchased. OEB staff further emphasized that, if the final disposition of the accounts is approved, any future adjustments must comply with the requirements set out in the OEB's 2019 Letter. VECC supported OEB staff's position.

SEC submitted that the proposed disposition should be allowed as E.L.K. Energy's past accounting and oversight practices should not be the reason to cause delay returning the money to customers.

OEB staff also accepted the proposed 48-month disposition period as it helps address the large, undisposed of credit balances accumulated over four to eight years in Accounts 1550,1588 and 1589, while reducing potential strain on E.L.K. Energy's cashflow. SEC and VECC also supported the 48-month disposition period.

Findings

The OEB approves the proposed Account 1588 and 1589 balances for disposition which were not contested in this proceeding. The approved balances for Accounts 1588

[20] E.L.K. Energy Letter to the OEB, July 31, 2025
[21] As outlined in the GA Analysis Workform Instructions, the Account 1588 Reasonability Test included in the GA Analysis Workform compares the annual Account 1588 variance to the Cost of Power purchased in that respective year. OEB requires utilities to provide explanations for any annual Account 1588 variance greater than +/- 1% of that year's cost of power purchased.

and 1589 are credits of $3,626,836 and $3,448,061, respectively, pertaining to variances accumulated during 2016 to 2023.

The OEB approves the proposed 48-month period for disposition of the three DVA account balances approved in this Phase 2 decision, in particular Accounts 1550, 1588 and 1589. The OEB finds it appropriate to amortize the cost for 48 months, which is longer than the 12 months for the DVA rate riders approved in the Phase 1 decision. In reaching this finding, the OEB considered the financial impact to the utility and the extended term over which the balances accrued, since 2016. These rate riders will be in effect from January 1, 2026 to December 31, 2029.

6. SETTLEMENT ADJUSTMENT WITH THE IESO

Section 36.1.1 of the *Electricity Act, 1998* sets out a two-year limitation period for certain IESO settlements (Limitation Period). The Limitation Period only applies to settlements that have been prescribed by regulation.

Ontario Regulation 153/23 specifies the types of settlements that are captured by the Limitation Period.

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 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,
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> > [...]
> >
> > (b) a decision, an order or a direction of the Board in respect of a variance account;

In the current proceeding, E.L.K. Energy identified an under-recovery of $2.8 million from the IESO related to 2016 to 2023 settlements. Since the settlement errors occurred more than two years ago, E.L.K. Energy requested an OEB order enabling recovery from the IESO, in accordance with section 36.1.1(7)(b) of the *Electricity Act, 1998*.[22] The proposed settlement adjustments with the IESO, identified during E.L.K. Energy's internal review and external audit process, consist of the following:[23]

- RPP True Up Settlement Adjustments: $3.8 million under-recovery to be collected from the IESO related to 2016-2023 RPP submissions. These submissions were recalculated by following the OEB's Accounting Guidance.
- FIT Contracts Settlement Adjustments: $1.2 million over-recovery for the years 2016 – 2023 be paid to the IESO because E.L.K. Energy previously submitted the full FIT contract price without deducting the Hourly Ontario Energy Price.

[22] Manager's Summary, 3.3.2.1, p. 18
[23] Interrogatory Responses, Staff-11 f), January 27, 2025

- GA Settlement Adjustment: $0.2 million under-recovery for the years 2017 to 2023 to be collected from the IESO because the Class A volumes were submitted based on billed volumes rather than volumes consumed in a month.

In its response to supplemental interrogatories, E.L.K. Energy highlighted that the requested total adjustment of $2.8 million from the IESO represents approximately 78% of its 2022 approved base revenue requirement and would impose an undue burden if disallowed. E.L.K. Energy also noted its current significant financial difficulties, citing reported Return on Equity of negative 1.97% for 2022 and negative 22.33% for 2023.[24]

Applying the four factors outlined in the OEB 2019 Letter to the proposed IESO adjustments, E.L.K. Energy stated that the settlement errors were within its control and are not recurring. E.L.K. Energy acknowledged its settlement process with the IESO was not consistent with the OEB Accounting Guidance and noted that such errors appear to be common among other distributors.[25]

On October 27, 2025, the IESO filed a IESO Letter with the OEB confirming that the Limitation Period does not extend to either the RPP or the FIT programs. In its reply submission, E.L.K. Energy confirmed that it has proceeded to settle the RPP true-up and the FIT contract-related adjustments with the IESO.[26]

With respect to the remaining proposed GA settlement adjustment of $0.2 million related to the Class A volumes correction, OEB staff submitted that it should not be accepted, noting that its assessment of the four factors generally weighs against supporting the requested IESO settlement adjustment. OEB staff argued that the error was within E.L.K. Energy's control and not recurring and E.L.K. Energy's settlement with IESO was not consistent with the OEB Accounting Guidance. OEB staff further noted that, although the exact cause of these types of error might vary among utilities, similar errors have been made by other distributors, specifically similar Class A consumption errors were identified in Algoma Power's 2025 Cost of Service application. In the Final Decision and Order for Algoma Power's 2025 Cost of Service application (Algoma Power decision),[27] the OEB relied on the four factors outlined in the 2019 Letter and determined that an exception to the Limitation Period would be inappropriate, as Algoma Power did not demonstrate exceptional circumstances.[28]

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[24] Interrogatory Responses, Supplemental Staff-5 d), May 2, 2025
[25] Interrogatory Responses, Staff-11 f), January 27, 2025
[26] Reply Submission, November 19, 2025, pp.4-5
[27] EB-2024-0007, Final Decision and Order, pp. 3-9, January 9, 2025
[28] OEB Staff Submission, November 5, 2025, pp. 9-11

VECC supported OEB staff's submission and SEC did not take a position on the proposed IESO adjustments.

In its reply submission, E.L.K. Energy disagreed with OEB staff's position on the proposed Class A adjustments, emphasizing that its current financial position demonstrates exceptional circumstances. E.L.K. Energy argued that the "windfall" received by IESO market participants should be corrected, particularly given that the $0.2 million adjustment is significant relative to E.L.K. Energy's size.[29]

Findings

The OEB finds that E.L.K. Energy has the ability to require settlement with the IESO for the following:

- RPP true-up adjustment of $3.8 million to be collected from the IESO
- FIT contract adjustment of $1.2 million to be paid to the IESO.

The OEB does not approve E.L.K. Energy's proposal to collect $0.2 million from the IESO to correct Class A volumes that were under-recovered for the years 2017 to 2023. The OEB finds that E.L.K. Energy's shareholders should pay the cost of the error.

The OEB is guided by the IESO Letter filed in response to Procedural Order No. 7.[30] The IESO Letter described how it applies the two-year Limitation Period. The IESO provided a list of programs subject to the two-year Limitation Period. The OEB finds that Class A consumption volumes are subject to the Limitation Period as identified on the IESO's list of programs. The OEB does not consider the circumstances in this proceeding to be exceptional, sufficient to approve an exception to the Limitation Period.

The effect of E.L.K. Energy's proposal to settle the error with the IESO would require every market participant and ratepayer in Ontario to pay for the cost. SEC, VECC and OEB staff did not support E.L.K. Energy's proposal.

The OEB also considered E.L.K. Energy's reply submission, specifically:

- the need "to correct the windfall that was received by the IESO market participants"
- its financial viability, and exceptional circumstances, of a utility with a 2023 return on equity of -22.33% and net loss of $1.1 million
- the significant material impact of $0.2 million given the size of the utility

[29] *Ibid.*
[30] IESO Letter, October 27, 2025

- the effect on Windsor Canada Utilities Ltd.’s acquisition of E.L.K. Energy
- the prompt action taken to address the issue

Both OEB staff and E.L.K. Energy referenced the Algoma Power decision in which the OEB did not approve an exception to the Limitation Period related to Class A volume errors.[31] That decision stated that it would be inappropriate for the OEB to grant exceptions, without regard for the meaning and effect of the Limitation Period.

The OEB acknowledges the financial issues faced by E.L.K. Energy as evidenced by the 2023 return on equity and net loss. However, the OEB finds that enabling the correction of $0.2 million from the IESO will not significantly improve or exacerbate E.L.K. Energy’s financial situation. The OEB also acknowledges the acquisition of E.L.K. Energy by Windsor Canada Utilities Ltd. and expects parties involved in the transaction will guide themselves accordingly once this Decision is issued, in executing the proposed multi-phase transaction for which the OEB has approved Phase 1.[32] Further, the OEB does not find prompt action was taken, as the under-recovery from the IESO relates to unreconciled account balances from 2017 to 2023.

[31] EB-2024-0007, Final Decision and Order, January 9, 2025, pp. 7-9.
[32] EB-2025-0172, Decision and Order, October 21, 2025, p. 1.

7. IMPLEMENTATION

The approved effective date for E.L.K. Energy's new rates is May 1, 2025, with an implementation date of January 1, 2026. The OEB directs E.L.K. Energy to file a draft rate order reflecting the findings in this Phase 2 decision.

Regarding rate riders, the draft rate order shall include a revised tariff sheet to reflect the December 31, 2026 expiry date for the forgone revenue rate riders and the DVA rate riders approved in the Phase 1 decision. In addition, the revised tariff sheet will need to reflect, and distinguish, the December 31, 2029 expiry date for rate riders approved in this Phase 2 decision.[33]

[33] E.L.K. Energy may consult OEB staff to alter certain dates in the Rate Generator Model.

8. ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. E.L.K. Energy Inc. shall file with the OEB and forward to intervenors a draft rate order with a proposed Tariff of Rates and Charges attached that reflects the OEB's findings in this Decision and Order, no later than December 16, 2025. E.L.K. Energy Inc. shall also include customer rate impacts and detailed information in support of the calculation of final rates in the draft rate order.

2. Intervenors and OEB staff shall file any comments on the draft rate order with the OEB, and forward to E.L.K. Energy Inc., no later than December 18, 2025.

3. E.L.K. Energy Inc. shall file with the OEB and forward to intervenors, responses to any comments on its draft rate order no later than December 19, 2025.

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, Ian Richler at Ian.Richler@oeb.ca.

Email: registrar@oeb.ca
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DATED at Toronto, December 11, 2025

ONTARIO ENERGY BOARD

Ritchie Murray

Digitally signed by Ritchie Murray
Date: 2025.12.11 16:26:37 -05'00'

Ritchie Murray
Acting Registrar