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**File No. 099576.000089**

January 24, 2023

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

Ms. Nancy Marconi  
Ontario Energy Board  
2300 Yonge Street, 27th Floor  
Toronto, Ontario M4P 1E4

Dear Ms. Marconi:

**Re: Elexicon Energy Inc. (“Elexicon”) Application for 2023 Distribution Rates and Incremental Capital funding (“Application”) Ontario Energy Board (“OEB”) File Number: EB-2022-0024 Technical Conference Undertaking Responses**

We are counsel to Elexicon in the above noted matter. On January 17 and 18, 2023, the OEB held a transcribed technical conference to permit parties to ask clarification questions on ICM-related interrogatory responses where Elexicon committed to certain undertakings. Pursuant to Procedural Order No. 3, Elexicon is filing with the OEB the enclosed confidential response to Undertaking Response JT1-18 (“**JT1-18**”) given at the technical conference.

Elexicon is hereby requesting confidential treatment, pursuant to Sections 10.01 and 10.02 of OEB’s *Rules of Practice and Procedure* (Revised December 17, 2021) and Sections 5.1.1 and 5.1.2 of the OEB’s *Practice Direction on Confidential Filings* (Revised December 17, 2021) (“**Practice Direction**”) for the information provided in response to JT1-18.

In accordance with section 5.1.4(b) of the Practice Direction, the following table provides the details of the confidentiality claim.

Undertaking Response JT1-18 All Pages	<p><b><u>Nature of evidence</u></b></p> <p>OEB Staff requested in JT1-18 that Elexicon provide a forecast of its estimated return on equity (ROE) between 2023 and 2025. Such a request requires the disclosure of non-public forward-looking financial information and includes information that has not been generally disclosed. ROE is ordinarily an annual backwards-looking calculation based on parameters published by the OEB.</p>
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**Presumptively confidential treatment (Appendix B)**

Elexicon acknowledges that the request for confidentiality does not fall within Appendix B of the Practice Direction's list of specific categories of information that will presumptively be considered confidential. However, this information is very close to qualifying for presumptively confidential treatment under #9 or #10 of Appendix B which state:

- 9. Non-public forward-looking financial information where such disclosure could give rise to liability under Ontario securities law
- 10. Information that has not been generally disclosed and such disclosure is prohibited by Ontario securities law

Elexicon is a municipally owned corporation that does not participate in public markets and, therefore, these exemptions do not apply.

**Other reasons for confidentiality (Appendix A – section (a) and (b))**

Appendix A to the Practice Direction sets out the OEB's considerations in determining requests for confidentiality. The disclosure of forecasted values for ROE can be expected to harm Elexicon by prejudicing its competitive position. Particularly, credit agencies may be able to obtain this information and it could have an adverse affect on Elexicon's cost of capital.

Moreover, the information consists of financial material that is consistently treated in a confidential manner by Elexicon. Forecasts of Elexicon's ROE is speculative, non-public, forward-looking financial information, which is consistently treated in a confidential manner. Elexicon further submits that the information contained in JT1-18 is among the types of information maintained by the OEB as confidential.

Finally, the forecasted ROE is based on unaudited, draft financial information that is subject to change. Procedural Order No. 3 only provided Elexicon with 6 days to prepare this undertaking response. Even if the ROE was backwards looking, this is not enough time for Elexicon or third party auditors to scrutinize the numbers underpinning these ROE calculations. The potential negative effects to Elexicon outweigh the probative value of disclosure.

Please contact the undersigned with any questions.

Yours truly,

A handwritten signature in cursive script that reads "J Vellone".

John Vellone

JV/CB

cc: Parties in EB-2022-0024

Elexicon Energy Inc.

Answer to Undertaking from

OEB STAFF

Undertaking JT1.18:

TO PROVIDE A TABLE OF FORECASTS UP TO 2025.

