



March 27, 2023

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

Ms. Nancy Marconi  
Ontario Energy Board  
2300 Yonge Street  
P.O. Box 2319  
Suite 2700  
Toronto, ON M4P 1E4

Dear Ms. Marconi:

**Re: EB-2022-0024 – Elexicon Energy Inc. (“Elexicon”) Incremental Capital Module (“ICM”) Application  
Evidence Update and Purported Extension of the Customer Connection Horizon**

Elexicon filed its application and supporting evidence on July 27, 2022, for both the incentive rate-setting mechanism (“IRM”) and ICM applications. On November 1, 2022, the OEB bifurcated the IRM and ICM application into separate phases. On December 8, 2022, the OEB issued a Partial Decision and Order on the IRM portion of the application.

**1. Evidence Updates**

In the ICM application, Elexicon stated that the Sustainable Brooklin project (“SB Project”) was forecasted to be placed in-service in Q4 of 2023 and the Whitby Smart Grid project would be placed in-service in Q4 of 2025. Due to regulatory delays and supply chain constraints, the SB Project in-service date is now forecasted to be placed in-service in Q2, 2025. Elexicon has filed updated ICM models reflecting this change. Consistent with the Whitby Smart Grid Project, Elexicon requests approval of the illustrative 2025 SB Project rate riders on an interim basis. Elexicon will file updated ICM models in its 2025 IRM application consistent with the approach outlined in the response to Technical Conference Undertaking JT2.2.

This letter only relates to evidence updates for the ICM portion of the application. A listing of the evidence being updated is provided in Attachment A and changes to the written evidence are noted with a “/u”. The tables below summarize the updates in Attachment A.

**Table 1: ICM Application**

Evidence	Page Number	Line Number
With the Sustainable Brooklin Project forecasted to be used and useful in 2023	85	24

Sustainable Brooklin community is forecasting 700+ DER and EV ready homes per year starting in Q4, 2023	93	23-24
Sustainable Brooklin is currently scheduled to become used and useful in Q3 of 2023	95	1
The costs of the Sustainable Brooklin Project are to be allocated entirely to the WRZ with an in-service date in Q3 of 2023. Updated materiality threshold values for 2025 to reflect final ICM models for 2023 (i.e. final Demand, IPI and Rates data for 2023)	103	21
Marked Table 5 as not applicable, and updated Table 6 & 7 to reflect 2025 capital expenditures as per updated JT2.1, and materiality threshold values as a result of Sustainable Brooklin project in-service move to Q2, 2025	104	Table 5, 6 & 7
While the Sustainable Brooklin Project will come into service in 2023	120	18
The revenue requirement of \$2.160MM associated with the Sustainable Brooklin Project within the WRZ effective January 1, 2023.	121	21
Project does not start until 2023 so no GHG emission savings can be accounted for in 2022	159	Footer 11
Elexicon is investigating proposals to incentivize DER adoption and introduce an enhanced local capacity market. Further proposals on these are being developed and will be brought forward in the near future (as early as 2023).	189	Table (Mitigation Column, Savings Risk Row)
And guidance from the Brooklin Developers is the first tranche of the DER and EV-ready homes are to be energized by Q3, 2023	199	22
As noted in Appendix B, the Sustainable Brooklin Project will have an in-service date in Q3 of 2023	233	8

**Table 2: Appendix B-2 Sustainable Brooklin Business Case**

Evidence	Page Number	Line Number
As noted in Appendix B, the Sustainable Brooklin Project will have an in-service date in Q3 of 2023	4	8

**Table 3: IRRs**

Evidence	IRR
The projects are needed to meet the requirements of the Brooklin Landowner's Group Q3, 2023 in-service date for new construction, and the Whitby Smart Grid will modernize Elexicon Energy's distribution grid while providing customers energy savings and more rapid fault isolation and system restoration as a result of major storm events.	CCMBC-15

**Table 4: Technical Conference Undertakings**

Evidence	Undertaking
Question: ON A BEST-EFFORTS BASIS, TO TAKE STAFF 5'S TABLE IN RESPONSE A WHICH SHOWS TWO TABLES, ONE WITH VERIDIAN RATE ZONE, ONE FOR WHITBY RATE ZONE; ACTUALS; AND THEN INCLUDE FORECAST 2023-2026 AND ALSO INCLUDE THE ICMS.	JT2.1

[elexiconenergy.com](http://elexiconenergy.com)

Office T (905) 427-9870 T 1(888) 445-2881 F (905) 619-0210

Customer Care T (905) 420-8440 T 1(888) 420-0070 F (905) 837-7861

55 Taunton Rd. E.

Ajax, ON L1T 3V3

## 2. Extensions of the Customer Connection Horizon

On February 10, 2023, the OEB panel posed several written questions to Elexicon, including question “OEB Panel-4” that referred to a letter issued by OEB staff on December 22, 2022 titled “Reminder of Distributor Discretion to Extend Customer Connection Horizon for System Expansions” (the “**Staff Letter**”).

OEB staff state in the Staff Letter that under the Distribution System Code (“**DSC**”) electricity distributors have the discretion to extend the customer connection horizon that is used in distribution system expansions. OEB staff rely on footnote 1 in Appendix B of the DSC to support this interpretation. This footnote states that for customer connection periods of greater than 5-years, an explanation of the extension of the period must be provided to the OEB.

Elexicon notes that the Staff Letter contradicts previous guidance issued by OEB staff on exactly the same issue. Specifically, on December 18, 2020, OEB staff issued guidance stating that: “[a]ny deviation from [*the customer connection horizon of*] five years would therefore require an amendment to the DSC or an exemption from the relevant provisions through either a public consultation or a hearing process, as applicable.”<sup>1</sup> This letter is attached as Attachment B.

If the OEB accepts as true the statement made by OEB staff in its December 18, 2020 letter, Elexicon is concerned that the Staff Letter may in-fact constitute an unlawful attempt to amend the DSC in a manner that is contrary to the requirements of Section 70.2 of the *Ontario Energy Board Act, 1998*.

Given the potential consequences of not complying with an enforceable provision (fines of up to \$1,000,000 / day), as well as the current and now contradictory guidance provided by OEB staff, Elexicon lacks the level of certainty required to effectively operate its business.

In this context it is worth noting that:

- The language in footnote 1 in Appendix B of the DSC does not explicitly grant distributors discretion to extend the customer connection horizon. Rather, footnote 1 requires an explanation of the extension period be provided to the OEB for customer connection periods of greater than 5 years. Both footnote 1 and the rest of the DSC fall short of making references to and granting distributor discretion to extend the customer connection horizon. It appears to Elexicon that the Staff Letter is reading in the discretion by “necessary implication”. It is not clear to Elexicon why the “necessary implication” reading was not true in December of 2020, but is true just over two years later.

---

<sup>1</sup> Letter from OEB to Weset Whitby Landowners Group (August 16, 2019), Ontario Superior Court of Justice, Court File No. CV-22-00000570-0000, Application Record Dated December 12, 2022, Pages 687-693.

- Sections 3.2.23, 3.2.24 and 3.2.27 of the DSC each explicitly reference a five-year customer connection horizon with no allowance for an extended period absent a formal amendment or exemption to the DSC. The OEB should be particularly concerned about future unforecasted customers that could be materially prejudiced by a discretionary extension of the customer connection horizon to the extent they are relying on their rights under Section 3.2.27 of the DSC to ensure that they are not obligated to contribute to the costs of an earlier expansion that was completed more than five years earlier.
- By suggesting that distributors have discretion to extend customer connection horizon on a case-by-case basis the Staff Letter has failed to consider or provide guidance on the application of the requirements of the DSC in the broader statutory context including Section 26 of the Electricity Act, 1998 as well as Section 2.1 of the DSC. Specifically, a non-standardized approach to setting the customer connection horizon can reasonably be anticipated to result in discriminatory access to distribution systems in Ontario, contrary to section 26 of the Electricity Act, section 2.1 of the DSC, and the terms of a distributor's licence.

Elexicon would value guidance and clarity from the OEB on the Staff Letter in consideration of the matters set out above.

Please contact the undersigned with any questions.

Yours truly,



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

/

---

**elexiconenergy.com**

Office T (905) 427-9870 T 1 (888) 445-2881 F (905) 619-0210

Customer Care T (905) 420-8440 T 1 (888) 420-0070 F (905) 837-7861

**55 Taunton Rd. E.**

Ajax, ON L1T 3V3

ATTACHMENT A  
UPDATED EVIDENCE



1           3) Ensure a process is in place to consider CDM as a potential solution for these  
2           types of system needs and to compare CDM to traditional wires solutions.

3  
4       Each of these are discussed in turn, below.

#### 5                           **2.1.4.1. Assessing System Needs**

6  
7       Significant customer and load growth is expected in Elexicon’s service territory. The  
8       Durham Region is forecasted to grow from 699,460 people in 2022 to 1.3 million people  
9       in 2051 (in addition to businesses providing over 460,000 jobs in the region).<sup>16</sup>

10  
11       On April 1, 2019, Elexicon was formed. It filed its first consolidated Distribution System  
12       Plan (“**DSP**”) with the OEB on April 1, 2021 in connection with its 2022 IRM rate  
13       application.<sup>17</sup> The DSP was prepared by METSCO Energy Solutions Inc. (“**METSCO**”)  
14       and included a load forecast covering the period 2020-2030 at Appendix H of the DSP.

15  
16       For this application, Elexicon asked METSCO to generate an updated load forecast over  
17       a longer time horizon (i.e., 2021-2040) than that which was included in its DSP, in order  
18       to consider future system needs that may arise over the medium and long-term.  
19       METSCO’s updated load forecast is attached as Appendix B-4 to this Application.  
20       METSCO’s analysis concludes that Elexicon is expected to exceed available capacity on  
21       its 44 kV system as early as 2030, and to exceed available capacity on both its 44 kV and  
22       27.6 kV system as early as 2036.

23  
24       With the Sustainable Brooklin Project forecasted to be used and useful in Q2, 2025 and the  
25       WSG forecasted to be used and useful in 2025, the timing of these investments provides

---

<sup>16</sup> Durham Region, The Regional Municipality of Durham is one of the fastest growing regions in the world, ([LINK](#))

>  
<sup>17</sup> See EB-2021-0015, “Application and Evidence” at Appendix N and O, ([LINK](#))



1 the WSG include the ADMS, Volt-Var Optimization (“**VVO**”), and Fault Location and  
2 Isolation Service Restoration (“**FLISR**”).

3  
4 Elexicon chose to focus the WSG in the WRZ at this time given the advantage of the  
5 geographical continuity of the service area in the WRZ relative to the geographical  
6 discontinuity of the service area in the VRZ.

7  
8 However, Elexicon does not intend to limit the use of the ADMS to the WRZ only, but  
9 rather it intends to maximize the benefits of this technology across both rate zones.

10  
11 Accordingly, the ICM funding request pairs the costs of deploying these technologies with  
12 the ratepayers that will obtain the benefits of such improvements. The WSG will be placed  
13 into service in Q4 of 2025. The estimated total capital cost of the WSG, less NRCan  
14 funding, is \$43.172MM.

15  
16 Please see Appendix B-1: WSG Business Case for additional detail.

17  
18 **2.3.2. Sustainable Brooklin**

19  
20 Sustainable Brooklin provides an opportunity to facilitate the creation of a new  
21 construction community with the potential for significantly higher penetration levels of  
22 DERs and EVs relative to existing or proposed residential neighbourhoods. The  
23 Sustainable Brooklin community is forecasting 700+ DER and EV ready homes per year  
24 starting in Q2, 2025<sup>26</sup>.

/U

25  

---

<sup>26</sup> Source Elexicon Planning.



U

1 Sustainable Brooklin is currently scheduled to become used and useful in Q2 of 2025, to  
2 be ready in time for the energization of the first new homes. The estimated total capital  
3 cost of the Sustainable Brooklin Project is \$26.6MM.

4  
5 Please see Appendix B-2: Sustainable Brooklin Business Case for additional detail.

### 7 **2.3.3. DER Enabling Program & Local Capacity Market**

8  
9 As discussed above, Elexicon is currently considering two DER Enabling Programs to  
10 incent incremental DER capacity. The first would be modelled on a typical CDM  
11 marketing program, with a focus on promoting the benefits of new DERs, and may include  
12 the exploration of potential on-bill financing opportunities. The second would explore the  
13 creation of local capacity and energy markets modelled on the successful York Region  
14 Non-Wires Alternatives Demonstration Project.

15  
16 The underlying objective of these two programs will be to facilitate technology-agnostic  
17 DER capacity through market-based mechanisms, in order to gain sufficient experience  
18 with these DER resources. Through the programs, Elexicon will better understand their  
19 reliability, will be able to report on observed customer benefits, and will be positioned to  
20 make an informed decisions about future NWA solutions.

21  
22 Elexicon's ability to meaningfully pursue the DER Enabling Programs will be determined  
23 in part by whether or not the OEB approves the ICM Projects in this Application. Together,  
24 the above-described measures will enhance and increase the long-term benefits accruing  
25 to Elexicon ratepayers, and to Ontario's electricity sector, more generally.

26  
27 Please see Appendix B-3: DER Enabling Program & Local Capacity Market for additional  
28 detail. Elexicon notes that it is still considering whether to file an application with the OEB





1 g = calculated based on the percentage difference in distribution revenues  
2 between the distribution revenues from the most recent complete year and  
3 the distribution revenues from the most recent approved test year

4  
5 PCI = Price Cap Index from the distributors most recent Price Cap IR  
6 application as a placeholder for the initial application filing and will updated if  
7 new parameters become available during the course of the proceeding

8  
9 n= number of years since the last rebasing

10  
11 X = dead band set at 10%

12  
13 For the period of 2023 to 2025, the following materiality thresholds have been calculated  
14 for the WRZ and VRZ utilizing the OEB’s 2023 Capital Module Applicable for ACM and  
15 ICM – Version 1.0, issued May 27, 2022.

16  
17 **Table 4: Materiality Thresholds for WRZ and VRZ (2023 – 2025)**

18

Year	Materiality Threshold) (\$ Thousands)	
	WRZ	VRZ
2023	\$ 10,182	\$ 23,452
2024	\$ 10,385	\$ 23,844
2025	\$ 11,160	\$ 26,349

/U

19

20 The costs of the Sustainable Brooklin Project are to be allocated entirely to the WRZ with  
21 an in-service date in Q2 of 2025. The majority of the WSG costs are also to be allocated  
22 to the WRZ, however the costs of the ADMS and SCADA will be proportionately allocated  
23 to both the WRZ and VRZ. The WSG has an in-service date in Q4 of 2025. As such,

/U



1 Elexicon has calculated the following Maximum Eligible Incremental Capital amounts for  
2 the WRZ and VRZ, in 2025 as applicable: /U

3  
4 ~~Table 5: Maximum Eligible Incremental Capital for WRZ in 2023~~

Item	Amount (\$ Thousands)
<del>2023 Capital Forecast (WRZ)</del>	<del>\$ 39,712</del>
<del>Less: Materiality Threshold</del>	<del>\$ 10,182</del>
<del>Maximum Eligible Incremental Capital (WRZ 2023)</del>	<del>\$ 29,530</del>

5  
6  
7 **Table 6: Maximum Eligible Incremental Capital for WRZ in 2025**

Item	Amount (\$ Thousands)
2025 Capital Forecast (WRZ)	\$ 74,414
Less: Materiality Threshold	\$ 11,610
Maximum Eligible Incremental Capital (WRZ 2025)	\$ 63,804

8  
9  
10  
11 **Table 7: Maximum Eligible Incremental Capital for VRZ in 2025**

Item	Amount (\$ Thousands)
2025 Capital Forecast (VRZ)	\$ 40,546
Less: Materiality Threshold	\$ 24,349
Maximum Eligible Incremental Capital (VRZ 2025)	\$ 16,197

12  
13  
14 With respect to the VRZ, Elexicon’s forecast capital expenditures in 2025, absent the  
15 ADMS and SCADA component of the WSG, already exceeds the materiality threshold for  
16 the VRZ by over \$3MM. Elexicon’s VRZ ICM request relates only to the ADMS and  
17 SCADA portion of the WSG at a cost of \$6.431MM, and as such Elexicon is not seeking  
18 the maximum eligible incremental capital for the VRZ in 2025. With respect to the WRZ



1 but will also reduce GHG emissions given Ontario’s reliance on natural gas fired electricity  
2 generation for peak system needs. This will be particularly impactful in the near-to-  
3 midterm, as the Province’s nuclear fleet undergoes planned refurbishment and  
4 retirement. Similarly, the reduction of barriers to EV ownership in North Brooklin will  
5 facilitate greater EV uptake, and thus lower overall gasoline consumption and associated  
6 emissions.

7  
8 Importantly, the Sustainable Brooklin Project is innovative, and represents an opportunity  
9 for the OEB, IESO, other distributors, and municipalities to observe Elexicon and the  
10 Developer’s experience facilitating a new construction community with deep levels of  
11 DER and EV penetration. Elexicon expects approval and implementation of its  
12 Sustainable Brooklin requests will be accompanied by appropriate reporting requirements  
13 to ensure that lessons learned can be captured and actioned by other industry  
14 participants.

## 15 **6. ICM Financial Implications**

### 16 **6.1. Procedural Treatment of 2025 ICM Funding**

17  
18 While the Sustainable Brooklin Project will come into service in 2025 and can /U  
19 accommodate standard ICM practices with respect to rate riders, the WSG will not enter  
20 service until 2025. This issue of timing is a result of:

- 21
- 22 i. The long lead time required to construct the WSG, including significant lead times  
23 for material orders which have been exacerbated by the supply chain constraints  
24 of recent years; and,
  - 25 ii. The need for certainty of cost recovery regarding the WSG prior to significant  
26 investments being made.



1  
2 In a recent Decision,<sup>39</sup> the OEB approved rate riders well in advance of their  
3 implementation date for a similar ICM project. In this case, the longer lead time required  
4 prior to the in-service date of the WSG warrants finalization of applicable rate riders as  
5 part of Elexicon's 2025 IRM application. To facilitate this, Elexicon requests approval of  
6 the illustrative 2025 ICM rate riders presented within this application on an interim basis,  
7 or such other relief as the OEB deems appropriate to facilitate approval of incremental  
8 funding for the WSG with appropriate provisions to finalize cost recovery details. Elexicon  
9 will file updated ICM models applicable to the WSG for the WRZ and VRZ in its 2025 IRM  
10 application to inform the OEB's final decision at that time.

## 11 12 **6.2. Application of the Half-Year Rule**

13  
14 The Half-Year Rule is not applicable in this case as neither the 2023 nor 2025 ICM  
15 requests coincide with the final year of Elexicon's IRM plan term.  
16

## 17 **6.3. Rate Riders**

18  
19 Elexicon is seeking OEB approval of the ICM rate riders identified in the table below to  
20 recover the revenue requirement of \$2.160MM associated with the Sustainable Brooklin  
21 Project within the WRZ effective January 1, 2025. The ICM Model uses Elexicon's most /U  
22 recent allocation of revenues to appropriately allocate the incremental revenue  
23 requirement to the appropriate classes. Elexicon proposes that these rate riders remain  
24 in effect until its next rebasing.  
25

---

<sup>39</sup> In its Decision and Order in EB-2020-0249 issued April 29, 2021 the OEB approved final rate riders effective May 1, 2022 applicable to PUC Distribution Inc.'s Sault Smart Grid ICM



1  
2  
3

### 4.3. Risk Mitigation

Risk Category	Description	Mitigation
<i>Budget risk</i>	The current cost estimates are class 4.	These costs will be refined further, as the project progresses.
<i>Timeline risk</i>	<p>To accomplish the objectives of the Sustainable Brooklin project, the 1<sup>st</sup> tranche of this project needs to be completed.</p> <p>To fully utilize NRCan funding, the project is required to be completed by March 31, 2025.</p> <p>There are supply chain risks with several long-lead items.</p>	<p>Elexicon has put forward a timeline that will deliver the Whitby Smart Grid by March 31, 2025. This will enable both the Sustainable Brooklin project as well as allow Elexicon to fully utilize the NRCan funding.</p> <p>Elexicon is in regular contact with suppliers of long-lead items and has factored in the timings for the procurement of these items.</p>
<i>Savings risk</i>	There is a risk that the proposed potential savings/benefits are not realized.	<p>The first step in realizing the benefits is to ensure the full installation of all the devices across the entire Whitby system. Secondly, as mentioned in section 3.2,</p> <p>Elexicon is investigating proposals to incentivize DER adoption and introduce an enhanced local capacity market. Further proposals on these are being developed and will be brought forward in the near future (as early as 2024).</p>

/U



1 Initially, each of the pole lines will be strung with a single circuit but will have the capacity  
2 to accommodate three circuits each, in anticipation of future growth. Consistent with  
3 broader plans for the Whitby Smart Grid, Elexicon intends to build the new distribution  
4 assets servicing Sustainable Brooklin to incorporate innovative functions and features  
5 such as Volt-Var Optimization (“VVO”) which leads to conservation voltage reduction  
6 (“CVR”), Fault Location Isolation and Service Restoration (“FLISR”), Communicating  
7 Faulted Circuit Indicators (“CFCI”), Distribution Automation (“DA”) and a supporting  
8 Advance Distribution Management Systems (“ADMS”). On the back of these  
9 technologies, Elexicon’s assets in North Brooklin will be capable of automatically  
10 monitoring and managing the distribution system, with the foundation set for future  
11 capability of the integration of DERs. The installation of the VVO, FLISR/DA, and CFCI  
12 functionality is part of the first tranche of the Whitby Smart Grid project. The ADMS will  
13 ensure that the relevant systems being put in place integrate the VVO, FLISR/DA and  
14 CFCI functionality. Details on these installations and the benefits are described in further  
15 detail in Appendix B of this ICM application.

16  
17 The current estimated cost for this project is \$26.6 MM<sup>4</sup>. To be clear, the costs in this  
18 business case only cover the construction of the two new 27.6kV line and associated  
19 equipment. The installation of the smart grid technologies, including ADMS, will be  
20 conducted through the Whitby Smart Grid project. Elexicon’s best information at this time,  
21 and guidance from the Brooklin Developers is the first tranche of the DER and EV-ready  
22 homes are to be energized by Q2, 2025.

/U

23  
24  
25

---

<sup>4</sup> This is a Class 4 estimate.



1  
2 At Appendix D of this ICM Application METSCO Energy Solutions Inc. (“**METSCO**”) produced a twenty-  
3 year load forecasting model for Elexicon that predicts load growth across Elexicon’s service area. One of  
4 the scenarios METSCO considered in their modelling of load growth is the “Region of Durham Scenario”  
5 where housing forecasts are based on the data published by the Region of Durham. Under this scenario,  
6 METSCO concludes that the 44-kV-system is expected to exceed capacity by 2030. If load can be balanced  
7 between the 27.6-kV and 44-kV systems, then the whole system is forecast to exceed capacity in 2036.  
8 As noted in Appendix B, the Sustainable Brooklin Project will have an in-service date in Q2 of 2025 and the  
9 Whitby Smart Grid will have an in-service date in Q4 of 2025. From an infrastructure perspective, the in-  
10 service dates of the Projects provide sufficient lead time for Elexicon to evaluate capacity needs in the early  
11 2030’s, and assess non-wires alternatives to traditional wires investments.

/U

12  
13 Successful deferral of traditional infrastructure will rely both on a grid that can support higher levels of DER  
14 connection, as provided by the Projects, and the installation and connections of the DERs themselves.  
15 Initiating the Programs in the near-term will help ensure that this second necessary element (i.e. DER  
16 uptake) is secured in time to inform critical investment decisions.

17

18 **Step 2: Define the types of system needs where CDM activities have the greatest**  
19 **potential to meet the system need.**

20

21 On November 24, 2021, the Independent Electricity System Operator (“**IESO**”) published a survey on  
22 consumer electricity preferences and behaviors that are likely to impact the supply and demand of electricity  
23 in Ontario in the future.<sup>3</sup> There were three key findings from the IESO’s study:

24

- 25 • Pricing models are seen as the main way consumers can manage costs, however reliability and  
26 predictability is also important.
- 27 • Consumers express receptiveness to adopting certain new electricity products and services,  
28 particularly those that help to manage costs, and an openness to exploring providers other than  
29 their current utility.
- 30 • Path to DER uptake relies on increasing knowledge among consumers and shorter timeframes to  
31 recoup initial investment.

---

<sup>3</sup> IESO, Consumer Preferences, Choices and Behaviours Impacting Electricity Supply and Demand, November 24, 2021, online:  
<<https://www.ieso.ca/-/media/Files/IESO/Document-Library/White-papers/Consumer-Electricity-Preferences-and-Behaviours-Survey.ashx>>

Elexicon Energy Inc.

Answer to Interrogatory from

Coalition of Concerned Manufacturers and Business of Canada

Interrogatory CCMBC-15:

Reference: Appendix B-1, Whitby Smart Grid Business Case, page 38

Preamble: “High penetrations of DERs, increases the needs for distribution system reliability. Thus, to quickly locate faults, maintain system reliability, and minimize outages, CFCIs will be added to the DA system. DERs increase distribution system complexity and traditional methods of fault locating may be too cumbersome, resulting in extended outages in a high-DER future. Incorporating FLISR systems will help improve system reliability.”

Please confirm that Elexicon is requesting OEB approval for ICM funding from ratepayers of \$26.7 million to increase DER penetration, and ICM funding from ratepayers of \$43.2 million to deal with the reliability problems due to high penetration of DERs. Please discuss your answer.

Response:

Elexicon Energy does not confirm the statement. The question above only highlights two items among many which underpin the need and justification for the Projects. Please see Appendix B, pages 20 to 22, Table 2 for a list of project drivers necessitating the Projects. Please see Appendix B, pages 9 to 12 for a summary of the anticipated benefits resulting from the Projects.

The projects are needed to meet the requirements of the Brooklin Landowner’s Group, and the Whitby Smart Grid will modernize Elexicon Energy’s distribution grid while providing customers energy savings and more rapid fault isolation and system restoration as a result of major storm events.

/U



Elexicon Energy Inc.

Answer to Undertaking from

Consumers Council of Canada

Undertaking JT2.1:

ON A BEST-EFFORTS BASIS, TO TAKE STAFF 5'S TABLE IN RESPONSE A WHICH SHOWS TWO TABLES, ONE WITH VERIDIAN RATE ZONE, ONE FOR WHITBY RATE ZONE; ACTUALS; AND THEN INCLUDE FORECAST 2023-2026 AND ALSO INCLUDE THE ICMS.

Response:

Please see Table 1, 2 and 3 below where Elexicon has updated the capital tables from interrogatory Staff-05 to include the forecasted capital for years 2023 to 2026.



Table 1 – Whitby Rate Zone Capital Expenditures Including ICM

Whitby Rate Zone																			
Category	2018	2018	2019	2019	2020	2020	2021	2021	Sept 2021 YTD	2022	Sept 2022 YTD	2023	2023	2024	2024	2025	2025	2026	2026
Plan	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual
System Access (WRZ)	\$ 6,930	\$ 2,132	\$ 14,276	\$ 14,794	\$ 10,087	\$ 10,694	\$ 11,380	\$ 8,857	\$ 617	\$ 13,929	\$ 735	\$ 2,037	\$ -	\$ 2,605	\$ -	\$ 2,955	\$ -	\$ 2,354	\$ -
System Renewal (WRZ)	\$ 7,347	\$ 7,032	\$ 3,275	\$ 9,189	\$ 4,865	\$ 3,249	\$ 8,264	\$ 5,669	\$ 1,343	\$ 2,998	\$ 483	\$ 2,441	\$ -	\$ 3,321	\$ -	\$ 6,040	\$ -	\$ 4,338	\$ -
System Service (WRZ)	\$ 2,840	\$ 476	\$ 152	\$ 1,035	\$ 784	\$ 199	\$ 227	\$ 3,740	\$ -	\$ 3,916	\$ 611	\$ 6,087	\$ -	\$ 1,089	\$ -	\$ 1,724	\$ -	\$ 374	\$ -
General Plant (WRZ)	\$ 3,124	\$ 1,309	\$ 1,309	\$ 205	\$ 1,849	\$ 1,809	\$ 1,597	\$ 1,844	\$ 359	\$ 2,379	\$ 215	\$ 2,490	\$ -	\$ 1,310	\$ -	\$ 1,124	\$ -	\$ 1,364	\$ -
Total Gross (WRZ)	\$ 20,241	\$ 10,949	\$ 19,012	\$ 25,223	\$ 17,585	\$ 15,951	\$ 21,468	\$ 20,110	\$ 2,319	\$ 23,222	\$ 2,044	\$ 13,055	\$ -	\$ 8,325	\$ -	\$ 11,843	\$ -	\$ 8,430	\$ -
Contributed Capital (WRZ)	\$ 3,671	\$ 1,786	\$ 5,853	\$ 11,438	\$ 4,051	\$ 3,486	\$ 7,417	\$ 5,049	\$ 578	\$ 13,265	\$ 648	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Net (WRZ)	\$ 16,570	\$ 9,163	\$ 13,159	\$ 13,785	\$ 13,534	\$ 12,465	\$ 14,051	\$ 15,061	\$ 1,741	\$ 9,957	\$ 1,396	\$ 13,055	\$ -	\$ 8,325	\$ -	\$ 11,843	\$ -	\$ 8,430	\$ -
ICM (WRZ)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 63,396	\$ -	\$ -	\$ -
ICM Contribution (WRZ)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 825	\$ -	\$ -	\$ -
Total Including ICM (WRZ)	\$ 16,570	\$ 9,163	\$ 13,159	\$ 13,785	\$ 13,534	\$ 12,465	\$ 14,051	\$ 15,061	\$ 1,741	\$ 9,957	\$ 1,396	\$ 13,055	\$ -	\$ 8,325	\$ -	\$ 74,414	\$ -	\$ 8,430	\$ -

/U

Table 2 – Veridian Rate Zone Capital Expenditures Including ICM

Veridian Rate Zone																			
Category	2018	2018	2019	2019	2020	2020	2021	2021	Sept 2021 YTD	2022	Sept 2022 YTD	2023	2023	2024	2024	2025	2025	2026	2026
Plan	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual
System Access (VRZ)	\$ 34,018	\$ 13,223	\$ 28,891	\$ 11,586	\$ 11,860	\$ 13,595	\$ 33,301	\$ 17,156	\$ 1,623	\$ 44,914	\$ 2,303	\$ 7,334	\$ -	\$ 6,078	\$ -	\$ 7,244	\$ -	\$ 8,784	\$ -
System Renewal (VRZ)	\$ 10,117	\$ 10,846	\$ 9,885	\$ 17,810	\$ 8,298	\$ 9,917	\$ 11,404	\$ 14,912	\$ 1,523	\$ 11,418	\$ 1,689	\$ 12,286	\$ -	\$ 13,499	\$ -	\$ 24,154	\$ -	\$ 15,136	\$ -
System Service (VRZ)	\$ -	\$ 21	\$ 354	\$ 63	\$ 536	\$ 2,972	\$ 1,191	\$ 5,383	\$ 225	\$ 2,000	\$ 1,043	\$ 1,721	\$ -	\$ 8,067	\$ -	\$ 3,309	\$ -	\$ 10,349	\$ -
General Plant (VRZ)	\$ 2,850	\$ 4,857	\$ 3,051	\$ 5,611	\$ 4,315	\$ 4,221	\$ 10,467	\$ 4,830	\$ 839	\$ 10,752	\$ 733	\$ 6,171	\$ -	\$ 3,056	\$ -	\$ 2,623	\$ -	\$ 3,182	\$ -
Total Gross (VRZ)	\$ 46,785	\$ 28,947	\$ 42,181	\$ 35,070	\$ 25,009	\$ 30,705	\$ 56,363	\$ 42,281	\$ 4,210	\$ 69,084	\$ 5,768	\$ 27,512	\$ -	\$ 30,700	\$ -	\$ 37,330	\$ -	\$ 37,451	\$ -
Contributed Capital (VRZ)	\$ 4,053	\$ 6,345	\$ 13,657	\$ 5,369	\$ 9,451	\$ 12,855	\$ 25,059	\$ 10,616	\$ 1,039	\$ 33,241	\$ 1,550	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Net (VRZ)	\$ 42,732	\$ 22,602	\$ 28,524	\$ 29,701	\$ 15,558	\$ 17,850	\$ 31,304	\$ 31,665	\$ 3,171	\$ 35,843	\$ 4,218	\$ 27,512	\$ -	\$ 30,700	\$ -	\$ 37,330	\$ -	\$ 37,451	\$ -
ICM (VRZ)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 46,667	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,432	\$ -	\$ -	\$ -
ICM Contribution (VRZ)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,216	\$ -	\$ -	\$ -
Total Including ICM (VRZ)	\$ 42,732	\$ 22,602	\$ 28,524	\$ 29,701	\$ 15,558	\$ 17,850	\$ 31,304	\$ 31,665	\$ 3,171	\$ 82,510	\$ 4,218	\$ 27,512	\$ -	\$ 30,700	\$ -	\$ 40,546	\$ -	\$ 37,451	\$ -

/U

Table 3 – Elexicon Total Capital Expenditures Including ICM

ELEXICON																			
Category	2018	2018	2019	2019	2020	2020	2021	2021	Sept 2021 YTD	2022	Sept 2022 YTD	2023	2023	2024	2024	2025	2025	2026	2026
Plan	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual	Plan	Actual
System Access (Elexicon)	\$ 40,948	\$ 15,355	\$ 43,167	\$ 26,380	\$ 21,947	\$ 24,289	\$ 44,681	\$ 26,013	\$ 2,240	\$ 58,843	\$ 3,038	\$ 9,371	\$ -	\$ 8,683	\$ -	\$ 10,199	\$ -	\$ 11,138	\$ -
System Renewal (Elexicon)	\$ 17,464	\$ 17,878	\$ 13,160	\$ 26,999	\$ 13,163	\$ 13,166	\$ 19,668	\$ 20,581	\$ 2,866	\$ 14,416	\$ 2,172	\$ 14,727	\$ -	\$ 16,820	\$ -	\$ 30,194	\$ -	\$ 19,474	\$ -
System Service (Elexicon)	\$ 2,840	\$ 497	\$ 506	\$ 1,098	\$ 1,320	\$ 3,171	\$ 1,418	\$ 9,123	\$ 225	\$ 5,916	\$ 1,654	\$ 7,808	\$ -	\$ 9,156	\$ -	\$ 5,033	\$ -	\$ 10,723	\$ -
General Plant (Elexicon)	\$ 5,774	\$ 6,166	\$ 4,360	\$ 5,816	\$ 6,164	\$ 6,030	\$ 12,064	\$ 6,674	\$ 1,198	\$ 13,131	\$ 948	\$ 8,661	\$ -	\$ 4,366	\$ -	\$ 3,747	\$ -	\$ 4,546	\$ -
Total Gross (Elexicon)	\$ 67,026	\$ 39,896	\$ 61,193	\$ 60,293	\$ 42,594	\$ 46,656	\$ 77,831	\$ 62,391	\$ 6,529	\$ 92,306	\$ 7,812	\$ 40,567	\$ -	\$ 39,025	\$ -	\$ 49,173	\$ -	\$ 45,881	\$ -
Contributed Capital (Elexicon)	\$ 7,724	\$ 8,131	\$ 19,510	\$ 16,807	\$ 13,502	\$ 16,341	\$ 32,476	\$ 15,665	\$ 1,617	\$ 46,506	\$ 2,198	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Net (Elexicon)	\$ 59,302	\$ 31,765	\$ 41,683	\$ 43,486	\$ 29,092	\$ 30,315	\$ 45,355	\$ 46,726	\$ 4,912	\$ 45,800	\$ 5,614	\$ 40,567	\$ -	\$ 39,025	\$ -	\$ 49,173	\$ -	\$ 45,881	\$ -
ICM (VRZ)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 46,667	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,432	\$ -	\$ -	\$ -
ICM (WRZ)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 63,396	\$ -	\$ -	\$ -
ICM Contribution	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,041	\$ -	\$ -	\$ -
Total Including ICM (Elexicon)	\$ 59,302	\$ 31,765	\$ 41,683	\$ 43,486	\$ 29,092	\$ 30,315	\$ 45,355	\$ 46,726	\$ 4,912	\$ 92,467	\$ 5,614	\$ 40,567	\$ -	\$ 39,025	\$ -	\$ 114,960	\$ -	\$ 45,881	\$ -

/U



ATTACHMENT B  
OEB LETTER  
DECEMBER 18, 2020



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

BY EMAIL [pdemelo@ksllp.ca](mailto:pdemelo@ksllp.ca)

December 18, 2020

Mr. Paul DeMelo  
Kagan Shastri LLP  
188 Avenue Road  
Toronto, ON M5R 2J1

Dear Mr. DeMelo:

Re: West Whitby Landowners Group and Elexicon Energy

I am writing in response to your letter dated November 18, 2019, on behalf of your clients – West Whitby Landowners Group (WWLG). Your letter sets out the specifics of your clients' complaint regarding costs allocated to WWLG by Elexicon Energy (previously Whitby Hydro Electric Corp. (WHEC)) in respect of new electricity distribution facilities. This letter provides the results of Ontario Energy Board (OEB) staff's review of your complaint and our conclusions regarding the issues raised.

First, I would like to apologize for the length of time in providing a response to your complaint. As you are aware following receipt of the complaint, in a letter dated April 28, 2020, you asked me to refrain from responding to your complaint in your November 18<sup>th</sup> letter for at least six weeks, as you wanted additional time to try to resolve this matter with Elexicon Energy. I advised you that I was amenable to your request in my May 20, 2020 letter. On June 22, 2020, Elexicon Energy responded to your April 28<sup>th</sup> request for additional time to negotiate. In doing so, Elexicon Energy noted that its position had not changed, and they therefore did not wish to enter into any further negotiations. In a letter dated July 6, 2020, you asked me to resume proceeding with addressing your clients' complaint. Since that time, I have engaged in a thorough review of the issues raised in your complaint, however that review was more involved than I had expected.

In coming to the conclusions set out below I have fully and carefully considered the submissions and questions raised by WWLG and the April 23, 2020 legal opinion a member of the WWLG requested from Loopstra Nixon LLP (the Loopstra Nixon Opinion)

that you provided as part of your April 28<sup>th</sup> correspondence. This response is also based on a substantial amount of information that OEB staff requested from Elexicon Energy.

Your November 18<sup>th</sup> letter specifically raised concerns associated with OEB staff's conclusions set out in my August 16, 2019 letter to you that:

- Elexicon Energy complied with the applicable regulatory requirements and the new station (MS16) that will be used to supply the new WWLG developments should be considered an "expansion" (not an "enhancement") under the provisions of the Distribution System Code (DSC);
- WWLG should also be responsible for the relocation charges that were questioned; and
- The appropriate connection horizon is five years as set out in the DSC.

In summary, after considering all of the submissions from WWLG and the information from Elexicon, the underlying conclusions set out in my August 16<sup>th</sup> letter remain unchanged – that is, MS16 is primarily an expansion; WWLG is responsible for the relocation costs; and the connection horizon should remain consistent with the DSC.

However, as noted above, your complaint did prompt further questions to Elexicon Energy. Based on the responses we received, I have concluded there are some costs allocated to WWLG that, in my view, WWLG should not be required to pay.

The remainder of this letter will focus on the expansion vs. enhancement issue and the relocation issue, including why certain MS16 costs should not be allocated to WWLG. In addressing those matters, I will also address certain items discussed in the Loopstra Nixon Opinion.

With respect to WWLG's questions about the appropriate connection horizon, your November 18<sup>th</sup> letter acknowledged that five years is set out in the DSC and is therefore a provision that Elexicon Energy must comply with. As you noted in your July 6<sup>th</sup> letter, Elexicon Energy is prohibited from making changes "in a manner that contravenes the Code". Any deviation from five years would therefore require an amendment to the DSC or an exemption from the relevant provisions through either a public consultation or a hearing process, as applicable.

You also raised concerns regarding the amount of load attributed to WWLG. Your letter states *"This would result in the WWLG requiring 6.7MW (3914 units \* 3.0kW \* 0.57) and not the suggested 10MW"*. As noted in my August 16<sup>th</sup> letter, the original estimates for a typical home's capacity that we received from WWLG and Elexicon Energy differed significantly – 1.5 kW (WWLG) vs. 4.5 kW (Elexicon). My August 16<sup>th</sup> letter also noted that the 2.56 kW estimate OEB staff used to calculate the 10 MW load fell within the range of reasonable estimates (2.5 kW – 3.0 kW) that we received from independent planners in the sector. To clarify, the 2.56 kW figure from the planners already reflected

the 0.57 diversity factor. As such, the estimate in your November 18<sup>th</sup> letter essentially involves applying the diversity factor twice and the outcome is about 1.7 kW per home; i.e., about the same as your initial low estimate of 1.5 kW.

### Expansion vs. Enhancement

In your November 18<sup>th</sup> letter, you continue to express the view that the new load associated with the new WWLG developments should be considered “general load growth” and asked me to explain how the OEB defines “general load growth” under the enhancements provision in the DSC. “General load growth” within that context is new load that is relatively gradual and is spread across a relatively large portion of a distributor’s service area – not thousands of new customers that are all concentrated within a relatively small load pocket and associated with one Offer to Connect (OTC).

You have advised that the WWLG developments will add 3,914 residential customers. To place that in perspective, Elexicon Energy has about 152,000 residential customers and almost 13,000 non-residential customers, according to information reported to the OEB . If MS16 were to be treated as an enhancement, all of those existing customers – including, for example, Elexicon Energy customers in Gravenhurst – that are not contributing to the load growth related to MS16 would pay the same amount as the 3,914 new customers (about 2.5% of Elexicon’s customer base) that are causing the need for (and benefitting from) the new transformer capacity. In other words, non-beneficiaries would pay almost all the costs.

Aside from aggregating various developers under one umbrella (i.e., WWLG), there is no difference between this development and a typical residential development in the GTA. In such cases the typical treatment under the DSC is for the distributor to require a capital contribution from the developer in the event that there is a shortfall between the incremental revenues to be received from the customers to be served by the expansion and the costs of building, operating and maintaining the expansion.<sup>1</sup>

The Loopstra Nixon Opinion suggests that the construction of the MS16 substation to serve the WWLG developments is not an expansion because the construction of a new substation does not appear in the list of examples of expansions set out in section 3.2.30 of the DSC. To be clear, those that appear are only “examples” as noted in the Loopstra Nixon Opinion (i.e., not an exhaustive list)<sup>2</sup>. I understand from your correspondence that,

---

<sup>1</sup> This is a simplified description of the economic evaluation to be performed by a distributor when dealing with a request for an expansion of its system. The methodology and assumptions for the economic evaluation are set out in Appendix B to the DSC.

<sup>2</sup>Pursuant to clause (a) section 3.2.30(a) of the DSC, an expansion of the main distribution system includes “building a new line to serve the connecting customer”. The DSC does not include a definition of “electricity distribution line”. However, “electricity distribution line” is defined in section 89 of the *Ontario Energy Board Act, 1998* (referred to in the DSC as the “Act”) as “a line, transformers, plant or equipment used for conveying electricity at voltages of 50 kilovolts or less”. Section 1.3.1 of the DSC provides, in part, that “Unless otherwise defined in this Code, words and phrases shall have the meaning ascribed to them in the Act”.

in your view, replacing a transformer with a new, larger one to accommodate your clients would be an expansion, as would upgrading a station to a new, larger one to accommodate your clients. This suggests that, in your view, had Elexicon Energy upgraded its MS8 station to accommodate your clients' developments, that would constitute an expansion to be paid for by your clients, but your clients should not be responsible for costs associated with the construction of MS16 which is being done to meet the same expanded customer demand. This is not a reasonable outcome for existing customers and does not in my view accord with the requirements of the DSC. I am satisfied that the construction of a new station to serve your clients falls within the examples of an expansion set out in section 3.2.30 of the DSC.

One issue that you raised in your November 18<sup>th</sup> letter is WWLG being allocated 100% of the cost of the land. In my view, that does not appear to be appropriate for the following reason. It was Elexicon Energy that decided to build MS16 to be able to accommodate four (4) transformers, as opposed to only the two (2) transformers that are needed to meet WWLG's needs. We therefore asked Elexicon Energy how much of the land would be required if the station had been built to accommodate only the two transformers dedicated to WWLG. Elexicon Energy responded that the total land requirement would be reduced by about 9%. That took into account the amount of land that would be required to be able to turn large vehicles around (e.g., cranes, flatbed transports) that are needed to install WWLG's two new transformers and replace them in the future.

We requested further information related to the land involved in this project from Elexicon Energy and were provided with the related Land Transfer document. It identifies that \$2 was paid by Elexicon Energy to a member of the WWLG – Mattamy Limited – as consideration. However, it is evident that \$2 was just a temporary placeholder to make it a formal transaction until the appropriate compensation was determined as that land transfer document states the following:

Explanation for nominal considerations:

s) other: The dispute between West Whitby Landowners Group ("WWLG") and Whitby Hydro, now Elexicon Energy Inc. "Elexicon" was referred to the Ontario Energy Board ("OEB") for a determination. Once a disposition by the OEB has been issued and a final determination made with regards to the appropriate compensation to be paid for the Lands, **Elexicon would amend the Transfer document** accordingly and make any required supplemental submissions to Land Transfer Tax accordingly so as **to reflect the amount of the consideration that is ultimately determined** by the OEB **to be payable by Elexicon** and comply with all applicable Land Transfer Tax Act obligations. [Emphasis added]

We also asked Elexicon Energy for a detailed breakdown of the costs of MS16 under both a two- and four-transformer scenario. Elexicon identified that the costs would be



about 20% lower; specifically \$710,109, under the two-transformer scenario. The basis for that 20% can be found in the Attachment A to this letter which includes tables we requested from Elexicon Energy that provide a full breakdown of the costs reflecting the two- versus four-transformer scenario. As shown in the tables, the switchgear and the foundation (to accommodate four transformers) make up most (about 85%) of the \$710,109.

In my view, WWLG, and more specifically the customers within WWLG's developments, are not directly benefitting in any way from Elexicon's decision to design MS16 so it can accommodate two additional transformers and WWLG should therefore not be responsible for any of the related incremental costs. This is consistent with my view that MS16 is primarily an expansion project driven by WWLG's needs. However, any portion of the new construction that is beyond the needs of WWLG should be treated as an enhancement from a cost responsibility perspective. This view is also consistent with the statement in the Loopstra Nixon Opinion that "While WWLG should expect to incur expansion costs and, therefore, fund its proportional share of the Project, it should not be required to pay 100% of the costs of the Project."

Based on the information provided by Elexicon, I have concluded that WWLG should receive a \$710,109 credit associated with MS16 (reflecting the cost differential between the two- and four-transformer scenarios) and a 9% credit in relation to the land based on an estimate of the market value on the date when the land was formally transferred to Elexicon Energy. With regard to the credit associated with MS16, as I noted above, that calculation is based on information provided by Elexicon. I suggest that Elexicon confirm those calculations in its further communications with WWLG. While no information has been provided on the value of the land at the time of the transfer, we would expect that the parties could identify a reasonable value for the purpose of resolving this matter. If that is not possible than I suggest that Elexicon Energy obtain an independent third party to estimate the market value at the time of the land transfer.

I also note that the Loopstra Nixon Opinion (at p.11) cites a 2008 Hydro One Networks transmission-related decision in which the OEB determined that Hydro One was not to require a capital contribution from a customer for connection facility costs related to a proposed new circuit because the facility was "otherwise planned" by the transmitter. However, the "otherwise planned" provision – section 6.3.6 – was removed from the TSC in 2013. The OEB explained its reasons for removing that section in its [May 17, 2013 Notice of Proposal to Amend a Code](#) (at p.15), in noting the following:

The Board remains of the view that the "otherwise planned" provision in section 6.3.6 of the TSC is not compatible with its approach to regional planning. The Board also believes that removing section 6.3.6 from the TSC will result in greater regulatory predictability and fairness amongst transmission customers in relation to cost responsibility (i.e., the transmission customer(s) that benefit from a transmission



connection investment will pay for the upgrade regardless of how the investment is planned). The Board is therefore proposing to remove section 6.3.6 from the TSC.

OEB staff's approach to the allocation of costs in relation to MS16 is consistent with the OEB's rationale for removing section 6.3.6 from the TSC over seven years ago. In stating the above, I am in no way questioning Elexicon's decision to build MS16 to accommodate additional transformers. If future load growth is expected, it is typically more cost effective to build one station, rather than two stations at separate times. The discussion above is only a hypothetical scenario that OEB staff has used to arrive at, in my view, the appropriate allocation of costs.

### Relocation

The documentation we received from Elexicon Energy in response to our questions related to relocation was comprehensive. It included maps, e-mails and meeting minutes (involving all of the various types of utilities) and indicated the lines were initially located along Coronation Road, which met with Elexicon's safe operation standards. However, the WWLG development resulted in the removal of Coronation Road, which caused the need to relocate those lines.

Based on the documentation we received, WWLG provided an initial design that was along Service Road. However, Elexicon Energy expressed concerns and stated the lines should be routed along DNB ROW because Service Road does not meet Elexicon's engineering standards for safe operation of its distribution system. As a result, WWLG agreed and revised the design drawings. This was reflected in Meeting Minutes (involving all utilities – Enbridge, Bell, etc.) that were prepared by WWLG's consultant on March 15, 2017 and clearly state that the pole line was to ultimately be located within DNB ROW.

While Elexicon Energy agreed to locate the lines along Service Road, it was only as a temporary solution until the DNB bridge deck was completed. This was reflected in an Elexicon Energy e-mail response to WWLG's consultant which noted "Whereas we agreed ... as an alternative for the time being, we did not agree to this being a permanent location for the pole line."

WWLG therefore caused the need for the relocation and there was agreement that Service Road was only a temporary solution. If WWLG did not pay the relocation costs, it would not be Elexicon Energy that ultimately pays; instead, it would be Elexicon's existing customers across its service area. They should not pay. As such, consistent with my previous letter, I have concluded that WWLG should be responsible for all the costs associated with relocation.

Summary

In summary, based on the information we obtained, it remains OEB staff's conclusion that Elexicon Energy has applied the regulatory requirements of the DSC correctly to the WWLG expansion (including relocation costs and the five-year connection horizon). However, OEB staff has also taken into account the unique circumstances in this case (i.e., not a pure expansion project) and, in doing so, also concluded that there should be a reduction in costs attributed to WWLG, as described above.

In my view, this concludes OEB staff's review of this complaint. We trust that WWLG and Elexicon will be able to resolve the valuations of the incremental four-transformer costs and the land costs based on the conclusions set out above. Should you have any questions about the conclusions set out in this letter, please contact me.

Yours truly,

A handwritten signature in black ink, appearing to be 'BH', with a long horizontal line extending to the right.

Brian Hewson  
Vice President  
Consumer Protection & Industry Performance

cc: Kevin Whitehead, VP – Asset Management, Elexicon Energy Inc.

Attachment