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File No. 99576.89

April 18, 2023

VIA EMAIL & RESS

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 Argument in Chief

Further to Procedural Order No. 5 dated, February 15, 2023 please find enclosed the Argument in Chief of Elexicon.

If you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

BORDEN LADNER GERVAIS LLP

A handwritten signature in black ink that reads 'J Vellone'.

John Vellone

JV/CB

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Sched. B, as amended (the “Act”);

AND IN THE MATTER OF an Application by Elexicon Energy Inc under Section 78 of the Act for an order approving just and reasonable rates and other charges for electricity distribution to be effective January 1, 2023, and January 1, 2025.

**ARGUMENT-IN-CHIEF OF
ELEXICON ENERGY INC.**

April 18, 2023

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A. INTRODUCTION

1. Elexicon Energy Inc. (the “**Applicant**” or “**Elexicon**”) presents this Argument-in-Chief (this “**AIC**”) with respect to Elexicon’s application filed pursuant to Section 78 of the *Ontario Energy Board Act, 1998* (the “**OEB Act**”) filed with the Ontario Energy Board (the “**OEB**”) on July 27, 2022, as amended (the “**Application**”) seeking, *inter alia*, approval of:
 - a) Incremental Capital Module (“**ICM**”) funding in 2025 of \$36.739MM for the Whitby Smart Grid Project, including a proportionate share of Advanced Distribution Management System and Supervisory Control and Data Acquisition costs, in the Whitby Rate Zone (“**WRZ**”);
 - b) ICM funding in 2025 of \$6.432 MM for a proportionate share of the ADMS and SCADA costs of the WSG, in the Veridian Rate Zone (“**VRZ**”); and
 - c) ICM funding in 2025 of \$26.657MM for the Sustainable Brooklin Project in the WRZ together with an exemption for the Brooklin Line from Section 3.2 of the Distribution System Code (“**DSC**”) (the “**DSC Exemption**”), which would otherwise require Elexicon to collect a capital contribution from the local developers towards the cost of constructing and operating the Brooklin Line.¹
2. Elexicon secured a federal grant from Natural Resources Canada (“**NRCan**”) of approximately \$4MM for the Whitby Smart Grid Project under an agreement which expires in March 2025, which amount has been apportioned between the VRZ and WRZ to reduce the ICM funding request.
3. A two-day oral hearing was held on the ICM portion of the Application on March 31 and April 3, 2023. Elexicon filed its written responses to undertakings arising from the oral hearing on April 12, 2023. Following the oral hearing, on April 4, 2023, the OEB issued a

¹ Application at Appendix B, pages 6-7; IR Response PWU-3.

list of suggested submission topics. Elexicon has organized this AIC based on the OEB’s suggestions.

4. Capitalized terms used in this AIC but not otherwise defined herein have the meaning ascribed to that term in the Application.
5. The Whitby Smart Grid Project involves the deployment of a suite of proven technologies to modernize the distribution system in the Whitby Rate Zone under the umbrella of the deployment of an Advanced Distribution Management System (“ADMS”); and including volt/VAR optimization technology (“VVO”) which can be immediately used in conservation mode to reduce energy/commodity costs for end use consumers; and distribution automation (“DA”) and fault location isolation and service restoration (“FLISR”) technologies which can immediately improve system reliability for consumers.
6. The Whitby Smart Grid Project is expected to deliver a net benefit for WRZ customers, as shown in Figure 1 below.

Figure 1: Whitby Smart Grid Project NPV benefit summary (27 years)²

Customer 27yr NPV Benefit Summary (5% Discount)		
<u>(All Dollars Listed in Thousands CAD)</u>		
Total Purchased Power Savings from WSG	\$	58,910
ICM Additional Revenue	\$	46,937
Additional OM&A Expenses	\$	5,857
Operating Efficiencies from WSG	\$	741
Sub-Total of Savings	\$	6,857
Projected VoLL Benefit from Reliability	\$	32,928
NPV of Net Benefits (27 years) to WSG Customers	\$	39,785

² Undertaking JT1.5.

7. The Whitby Smart Grid Project represents a significant investment in grid modernization, storm hardening, energy conservation and reliability that is necessary in recognition of the OEB's expectation that distributors consider Distributed Energy Resource ("DER") solutions as non-wires alternatives when assessing options for meeting system needs; and modify their planning and operations to prepare for DER impacts on Elexicon's system, including integrating those resources cost-effectively while maintaining reliable service for customers.³ As the Ministry of Energy continues to expect innovation and leadership from the OEB in the push for further electrification and the transition to cleaner energy sources,⁴ and awaits the OEB's advice and proposals to improve electricity distribution sector resiliency, responsiveness and cost efficiency,⁵ the Whitby Smart Grid Project reflects a credible option to continue to drive innovation, distribution system resiliency and responsiveness in Ontario.
8. Whitby ratepayers will receive a substantial net benefit over the weighted average useful life of the Whitby Smart Grid Project. When testing the sensitivity of this net benefit analysis to the forecasted cost of power, Elexicon identified that it would require a 13% (or \$14.42 MM) reduction in cost of power to deliver an annual net benefit of \$0. A sustained decrease of cost of power on this order of magnitude is improbable, given the IESO's Pathways to Decarbonization report at page 32 is instead forecasted increases of between 20% to 30%.⁶
9. When testing the sensitivity of this net benefit analysis to the forecasted capital cost of the Whitby Smart Grid Project, Elexicon identified that the project is expected to deliver a net present value of net benefits over its 27-year weighted average useful life of between \$53.540 MM (-30% of the Class 4 estimate) to \$13.199 MM (+50% of the Class 4 estimate). The project is expected to deliver net benefits to customers immediately in most scenarios, and will deliver net benefits to customers by year 9 in the +50% cost scenario.⁷

³ OEB, Framework for Energy Innovation: Setting a Path Forward for DER Integration, January 2023, at pages 3.

⁴ Ministry of Energy, Letter of Direction, October 21, 2022, page 1.

⁵ Ibid. at page 2.

⁶ Undertaking J2.7.

⁷ Undertaking J2.8.

10. The Sustainable Brooklin Project is an innovative project that involves the construction of two new 27.6 kV feeders connecting the North Brooklin development to available capacity at Whitby TS (these two feeders are known as the “**Brooklin Line**”).⁸ In exchange, the developers that will benefit from the Brooklin Line will be required to commit to building new residential homes that are DER and EV ready.⁹
11. Elexicon’s request for approval of ICM funding for the Brooklin Line is inextricably linked with the requested DSC Exemption and the related conditions of approval as set out in paragraphs 4 and 5 of the draft order included in response to Undertaking J2.10. Elexicon should not be required to collect a capital contribution from the developers if the OEB determines that ICM funding of the Brooklin Line is in the public interest. The Sustainable Brooklin Project is a highly innovative and unique opportunity to facilitate the development of a DER and EV ready community at the construction phase. This project will lower barriers and costs for North Brooklin customers to procure residential DERs and EVs by avoiding costly future retrofits. Greater penetration of DERs and EVs has the potential to create system benefits as well as customer-specific benefits.

B. ISSUE #1: Are the three ICM projects proposed mutually exclusive? If not, how should the OEB consider common/overlapping elements?

12. Elexicon is seeking ICM funding for two (not three) distinct projects: the Whitby Smart Grid Project and the Sustainable Brooklin Project (together, the “**ICM Projects**”).
13. While the Whitby Smart Grid Project constitutes a single project Elexicon has proposed that the costs of part of the Whitby Smart Grid Project be split over both its two rate zones (WRZ and VRZ). This is why there are three requested approvals.
14. Each of the ICM Projects are discrete projects that represent a significant and material capital expenditure for Elexicon that is not funded through Elexicon’s existing rates.

⁸ Appendix B-2 Sustainable Brooklin Business Case, at page 4.

⁹ Oral Hearing Transcript, Vol 1, pg 118, lines 3-10

15. The Whitby Smart Grid Project and the Sustainable Brooklin Project are separate and distinct. The OEB may approve one without the other based on its determination of what is in the public interest.
16. However, the Whitby Smart Grid Project and the Sustainable Brooklin Project are not mutually exclusive. Rather they form part of an integrated vision of Elexicon's role as a utility of the future.¹⁰
17. The factual linkage between the Whitby Smart Grid Project and the Sustainable Brooklin Project is summarized as follows:
 - a) the benefits forecasted from incremental DER uptake arising from Sustainable Brooklin Project (for example the station deferral)¹¹ will depend on the availability of the Whitby Smart Grid Project technologies to effectively manage the levels of DER penetration that are required to achieve a future deferral of investment;¹² and
 - b) while the reliability, energy savings, increases in resiliency, and other operational and grid modernization benefits of the Whitby Smart Grid Project would occur absent Sustainable Brooklin Project, Elexicon's ability to defer potential costly capacity upgrades in the future would be lessened without the quid-pro-quo of DER and EV enabled homes that is a core element of the Sustainable Brooklin Project.¹³

C. ISSUE #2: Has the customer engagement for these projects been appropriate?

18. Elexicon submits that its customer engagement for the ICM Projects has been appropriate.
19. Elexicon consulted directly with the democratically elected representatives of the Town of Whitby - the municipal government that represents the interests of citizens in the WRZ. The evidence is that on July 11, 2022, Elexicon presented the ICM Projects to Whitby

¹⁰ Application, Appendix B – Incremental Capital Module Whitby Smart Grid & Sustainable Brooklin, at pages 22-23.

¹¹ Application, Appendix B-4, METSCO, Elexicon Energy 2022-2041 Peak Load Forecast; at Table 15.

¹² Oral Hearing Transcript, Vol 2, pg 127, lines 19-28

¹³ Oral Hearing Transcript, Vol 1, pg 158, lines 20-27; Oral Hearing Transcript, Vol 2, pg 151, line 1 to pg 153, line 18

- Town Council.¹⁴ In that meeting, Elexicon provided the scope, drivers, needs, benefits, costs, and anticipated bill impacts to customers.
20. In consideration of all of this information, Whitby Town Council voted to unanimously endorse the ICM Projects.¹⁵
21. In reaching this resolution, Whitby Town Council discussed:¹⁶
- a) the importance of ensuring a responsible, innovative and robust electrical distribution system to support the needs of the community, including the ability to address future storm events; and
 - b) the benefits of Whitby Smart Grid and Sustainable Brooklin to community members, including the ability to support green initiatives, new housing development, and the growing number of electric vehicles in Whitby.
22. In this context, each of the Regional Municipality of Durham, BLGI and the Town of Whitby filed letter in support of this Application.¹⁷ Following the municipal election last fall, on January 17, 2023 the new Mayor of Whitby wrote and re-affirmed the Town's support for the ICM Projects.¹⁸
23. Elexicon puts significant stock on the decision of elected officials to endorse these ICM projects.¹⁹ The unanimous support of the elected officials representing the affected community is a reflection of local preferences and is a factor that the OEB should carefully consider in its decision-making.²⁰

¹⁴ Oral Hearing Transcript, Vol 1, pg 113, lines 14-18; SEC-01, Attachment 2, Presentation to Town Council, at pages 10-16.

¹⁵ Application, Appendix B – Incremental Capital Module Whitby Smart Grid & Sustainable Brooklin, at pages 9 & 29.

¹⁶ Application, Appendix B – Incremental Capital Module Whitby Smart Grid & Sustainable Brooklin, at pages 29-30.

¹⁷ Application, Appendix B-6: Letters of Support for ICM Application.

¹⁸ Town of Whitby letter dated January 18, 2023 available online at: <https://www.rds.oeb.ca/CMWebDrawer/Record/779605/File/document>

¹⁹ Oral Hearing Transcript, Vol 1, pg 113, lines 22-26.

²⁰ Oral Hearing Transcript, Vol 2, pg 27, lines 14-19.

24. Additionally, the majority of Elexicon customers support investment in new technologies.²¹ Elexicon filed a Customer Engagement Report prepared by Brickworks Communications only one year before the ICM application was filed.²² A key finding from that customer survey was that 76% of customers were highly supportive or somewhat supportive of Elexicon “investing in grid management technologies that will help it manage the impact of more Electric Vehicles, Renewable Generation, and Energy Storage.”²³ Customer engagement also indicated that there was strong support for Elexicon “investing now in things that will help reduce rate increases after 2029”, and “preparing the grid for new types of uses such as EVs and renewable generation”.²⁴

D. Issue #3: For the Sustainable Brooklin Project, is the requested exemption to the distribution system code: (a) appropriate; (b) in the best interest of ratepayers; (c) in the public interest?

25. Elexicon submits that the DSC Exemption is appropriate if and only if the OEB approves the Sustainable Brooklin Project for ICM funding. If ratepayers are funding the costs associated with the Brooklin Line in consideration of the *quid-pro-quo* with the developers, then Elexicon should not also be required to recover a capital contribution or an expansion deposit from the developers.

26. Elexicon would not have proposed the DSC Exemption if it did not believe that it was both in the best interest of ratepayers and in the public interest. Elexicon set out the reasons for its belief in Section 5 of Appendix B of the Application.

27. First, approval of the DSC Exemption and the ICM Projects would “facilitate innovation in the electricity sector”²⁵ through the creation of a DER and EV ready community in North Brooklin.²⁶

²¹ Application, Appendix B-7: Customer Engagement Report, at page 11 & 25.

²² Application, Appendix B-7: Customer Engagement Report

²³ Application, Appendix B – Incremental Capital Module Whitby Smart Grid & Sustainable Brooklin, at page 29.

²⁴ Application, Appendix B – Incremental Capital Module Whitby Smart Grid & Sustainable Brooklin, at page 29.

²⁵ See Section 1(1) of the OEB Act.

²⁶ Section 5.1 of Appendix B of the Application.

28. The December 2022 Annual Planning Outlook issued by the IESO identifies a summer capacity need emerging in 2026 and continuing to grow until 2043. In that context, the IESO has published its Resource Adequacy Framework to address the system reliability needs on the wholesale power system in a timely, cost-effective and flexible manner through a suite of competitive strategies that seek to balance ratepayer and supplier risk while recognizing the unique characteristics and contributions of different resource types. At the same time the IESO's Transmission-Distribution Coordination Working Group is currently working to better integrate DERs to meet wholesale system and market operations needs.
29. In response, the IESO has been gradually increasing the capacity it has procured through its wholesale capacity auction for the summer commitment period and as it has done so, the price for that incremental capacity has increased significantly to \$313.78/MW-day.²⁷
30. We also know that the IESO/Alectra were successfully able to procure 15 MW of DER capacity at a price of \$400/MW-day for the summer 2022 commitment period as part of its York Region Non-Wires Alternatives Demonstration Project.²⁸
31. The OEB has a unique opportunity to significantly lower the barriers to DER adoption in the North Brooklin community by facilitating residential consumers to avoid costly DER retrofits.²⁹ Elexicon has calculated a net present value of the avoided retrofit costs of \$45.28MM, assuming 350 homes constructed per year adopt DERs and/or EVs.³⁰

²⁷ For the summer commitment period the IESO's wholesale capacity auction procured 992.1 MW of capacity in 2020 at a price of \$197.58/MW-day, 1,286.7 MW in 2021 (an increase of 30% from 2020) at a price of \$264.99/MW-day (an increase of 34% from 2020), and 1,430.6 MW in 2022 (an increase of 11% from 2021) at a price of \$313.78/MW-day (an increase of 18% from 2021). Available online at: <https://www.ieso.ca/en/Sector-Participants/Market-Operations/Markets-and-Related-Programs/Capacity-Auction>

²⁸ Available online at: <https://www.ieso.ca/en/Sector-Participants/Engagement-Initiatives/Engagements/IESO-York-Region-Non-Wires-Alternatives-Demonstration-Project>

²⁹ Undertaking JT1.8.

³⁰ Undertaking JT1.9.

32. While some municipalities are considering mandating EV-ready homes,³¹ it is not yet mandatory in Whitby³² and these requirements do not currently extend to DER-readiness.
33. If both ICM Projects are approved, Elexicon will be bringing forward its comprehensive DER Enabling Program application. As part of that application, Elexicon would propose a methodology to measure and publicly report on actual DER uptake in the Sustainable Brooklin community versus DER uptake in the remainder of the Town of Whitby. In so doing, Elexicon would publish empirical evidence of increased DER uptake as a direct result of the decision to make the homes DER ready. This type of evidence could then be used by public policy makers to influence future amendments to the building code. The ultimate goal would be to make DER ready homes the new standard of excellence for building across the Province of Ontario.
34. Second, approval of the DSC Exemption and the ICM Projects would create opportunities to defer costly electricity infrastructure investments through the *quid-pro-quo* and in particular facilitating incremental DER adoption.³³
35. While the evidence in the Application has focused primarily on Elexicon's ability to defer its own infrastructure investments, it is important to note at the outset that this isn't the only type of infrastructure investment deferral opportunity.
36. The IESO recognizes that DERs benefit all of Ontario by (i) reducing reliance on the provincial electricity grid by supplying some (or all) of the energy needed for a home, facility or business to help lower electricity bills; (ii) limiting (or avoiding) the need for new or upgraded transmission lines; and (iii) providing back-up power to local communities during emergencies.³⁴ The IESO recognizes that DERs can reduce electricity commodity costs, transmission costs, and improve reliability and resilience of local systems in the event of an emergency.

³¹ Exhibit K2.5.

³² Transcript dated April 3, 2023 at page 60, lines 10-19.

³³ Application at Appendix B at Section 5.2.

³⁴ See "How DERs Benefit Ontario" available online at: <https://www.ieso.ca/en/Learn/Ontario-Electricity-Grid/Distributed-Energy-Resources>

37. In addition, Elexicon has produced evidence that demonstrate that DERs can help to defer or potentially avoid another costly capacity upgrade, which is anticipated based on the METSCO analysis in the early 2030s.³⁵ In this context, METSCO then forecasted the level of DER penetration required in North Brooklin to achieve a 1, 3 or 5 year deferral of a TS (to the benefit of all Whitby ratepayers).³⁶
38. Third, approval of the DSC Exemption and the ICM Projects would alleviate certain fairness concerns raised by BLGI with regards to the Brooklin Line and the associated capital contributions using a win-win solution for developers and ratepayers.³⁷
39. Fourth, approval of the DSC Exemption and the ICM Projects would also help to reduce GHG emissions through facilitating increased DER uptake to offset natural gas fired peaking generation and facilitating increased EV ownership thereby lowering overall vehicular emissions.³⁸
40. Fifth, approval of the DSC Exemption and the ICM Projects would support Ontario's commitment to get 1.5 million homes built over the next ten years, and to reduce bureaucratic costs and red tape that is delaying construction and pushing home prices up even higher.³⁹ The evidence is that the Town of Whitby has committed to a municipal housing target of 18,000 new homes to assist with achieving the Province's target,⁴⁰ and we know from Mr. Cory that the North Brooklin development makes up a sizeable subset of this commitment (approximately 40%). We also know that a decision not to approve the Sustainable Brooklin ICM project would, in Mr. Cory's words, significantly delay the North Brooklin developments by another 3-5 years.⁴¹

³⁵ Application at Appendix B-5 at Section 5.

³⁶ Application at Appendix B-5 at Table 15.

³⁷ Application at Appendix B at Section 5.3.

³⁸ Application at Appendix B at Section 5.4.

³⁹ <https://www.ontario.ca/page/more-homes-built-faster>

⁴⁰ Exhibit K1.3.

⁴¹ Transcript dated March 31, 2023 at page 30, line 14 to page 32, line 24

E. ISSUE #4: Is the requested timeline for approval appropriate for the Whitby Smart Grid project/Sustainable Brooklin project? Should the OEB allow an exception to the ICM policy? Are proposed illustrative rate riders on an interim basis appropriate?

41. Elexicon submits that the requested timeline for approval is both appropriate for both the Whitby Smart Grid Project and the Sustainable Brooklin Project.
42. Elexicon’s legal counsel addressed this issue in-part during the first day of the oral hearing.⁴² We will not duplicate that part of the argument again here.
43. A panel of commissioners considering individual rate applications are not bound by OEB policy, and where justified by specific circumstances, may choose not to apply the policy (or part of a policy).
44. In this context, the OEB’s current ICM policy is now nearly a decade old.⁴³
45. Many things have changed since it was adopted. Most notably, the OEB’s statutory objectives has been amended to include “to facilitate innovation in the electricity sector.”⁴⁴ And the OEB has recognized that the regulatory framework must be adapted to accommodate new and evolving responsibilities and activities of distributors.⁴⁵
46. At a minimum, the existing regulatory framework should not impose undue barriers to innovation.
47. The OEB recognized this when approving the Sault Smart Grid Project, explaining:

“Typically, a distributor applying for incremental capital funding for 2022 would be expected to apply for OEB approval as part of its 2022 Incentive Rate-Setting Mechanism (IRM) application. However, in this case, PUC Distribution indicated that it is applying in

⁴² Transcript dated March 31, 2023 at page 8, line 7 to page 10, line 10.

⁴³ Report of the Board New Policy Options for the Funding of Capital Investments: The Advanced Capital Module, September 18, 2014.

⁴⁴ *Ontario Energy Board Act, 1998* at Section 1(1) 4.

⁴⁵ OEB, Framework for Energy Innovation Report, January 2023, page 16.

advance in 2021 because it requires regulatory approval before it can commence the SSG Project and complete it in 2022.”⁴⁶

48. The evidence on the record in this Application is that the requested timeline is necessary for these two innovative projects. Elexicon requires ICM approval of both ICM Projects in order to get each project into service by 2025 as a result of the long lead times required to order materials and construct the applicable project, and the need for certainty regarding cost recovery of such a significant and innovative investments before it is made.⁴⁷
49. In addition, distributors have been directed by the OEB to not wait to consider DER solutions and seek OEB approval for distribution rate funding.⁴⁸
50. Finally, throughout the Application, the ICM rate riders have been framed as “illustrative” rate riders. This is because, as is explained in detail in response to undertaking JT2.2, Elexicon proposes to file updated ICM models for both the Whitby Smart Grid Project, and with the delay in the in-service date, of the Sustainable Brooklin Project as part of its 2025 IRM application which is expected to be filed in the summer of 2024. Specifically, Elexicon’s proposal is to update the ICM Models with the most up-to-date inflation factor, approved 2024 rates, and 2023 billing determinants (the “**Proposed Updated Parameters**”). Elexicon does not propose to update the ICM models for any changes in capital cost as proposed in this Application or any other parameters. Elexicon’s proposal has been guided by the OEB’s ICM policy, which would normally have the Proposed Updated Parameters.
51. In this context, from a legal perspective, Elexicon is requesting interim approval of its proposed 2025 ICM rate riders. For this panel of OEB commissioners to grant interim approval of the ICM rate riders, it would need to make findings on materiality, need and prudence. The interim rate riders in this application provide a reasonable indication of the impacts associated with approval of these projects. However, interim approval of the rate

⁴⁶ OEB Decision and Order issued April 29, 2021 in EB-2020-0249/EB-2018-0219 (the “**SSG Decision**”).

⁴⁷ With regards to the Whitby Smart Grid – see Application, Appendix B, at Section 6.1. With regards to Sustainable Brooklin – see the March 27, 2023 evidence update.

⁴⁸ OEB, Framework for Energy Innovation Report, January 2023, page 17.

riders would ensure that a future OEB panel would have the necessary discretion to adjust and finalize the rate riders to reflect the Proposed Updated Parameters.

F. ISSUE #5: Have the OEB’s ICM criteria been met for the Whitby Smart Grid and Sustainable Brooklin projects?

52. The OEB’s ICM criteria is set out in Section 3.3.2 of the *Chapter 3 of the OEB’s Filing Requirements for Electricity Distribution Rate Applications* issued May 24, 2022 applicable for IRM applications.
53. Elexicon is currently under a Price Cap IR plan, and is thus able to access ICM funding in accordance with OEB policy.
54. Because Elexicon’s deferred rebasing period arises as a direct result of the consolidation of the predecessor Whitby Hydro and Veridian, ICM remains available.⁴⁹
55. For the reasons set out below, Elexicon submits that both of the ICM Projects meet the criteria of materiality (including the project-specific eligibility test), need (including the means test and discrete project criteria), and prudence and thus are eligible for ICM funding.

1. Materiality

- **Is the proposed eligible amount appropriate?**
- **Does it have a significant influence on the operation of the distributor**

a. *Maximum Eligible Incremental Capital*

56. Elexicon updated its Maximum Eligible Incremental Capital amounts for both ICM Projects going into service in 2025 as part of its March 27, 2023 evidence update at pdf page 10 of 26. For ease of reference, these updates to Tables 6 and 7 of Appendix B are reproduced below.

⁴⁹ OEB letter issued December 1, 2021 re: Applications for 2023 Electricity Distribution Rates at page 3. <https://oeb.ca/sites/default/files/OEBltr-List-of-2023-Rebasers-20211201.pdf>

Figure 1: Updated Maximum Eligible Incremental Calculation to reflect the delay of the in-service date of the Sustainable Brooklin Project to Q2 2025.

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

/U

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

/U

57. With respect of the VRZ, Elexicon’s request for ICM funding is limited to \$6.431 MM, and as such Elexicon is not seeking the maximum eligible incremental capital in 2025.
58. With respect to the WRZ, Elexicon’s request for ICM funding is limited to \$63.396 MM⁵⁰ as such Elexicon is not seeking the maximum eligible incremental capital in 2025.

b. Project-Specific Materiality Threshold

59. The OEB has adopted a second, project-specific materiality test which states that minor expenditures in comparison to the overall capital budget should be considered ineligible for ICM treatment. The OEB may deny ICM funding for projects that are considered to be part of a typical annual capital program.
60. Elexicon’s total annual capital spending across both rate zones has ranged between \$30.315 MM in 2020 to \$49.173 MM in 2025.⁵¹

⁵⁰ As part of Elexicon’s evidence update, the in-service date for the Sustainable Brooklin project was updated to Q2 2025 such that both ICM projects will go in to service in 2025. Per Undertaking J1.1, the ICM funding of \$63.396M for the Whitby Rate Zone in 2025 is the sum of \$36.739 MM for the Whitby Smart Grid project, net of NRCan funding and \$26.657 MM for the Sustainable Brooklin project.

⁵¹ Undertaking J1.1.

61. In comparison, the forecasted cost of the Sustainable Brooklin Project is \$26.657 MM (or 54% of Elexicon’s base capital forecast for 2025) and the forecasted cost of the Whitby Smart Grid Project is \$43,171 MM (or 88% of Elexicon’s base capital forecast for 2025).⁵²
62. Each of the ICM Projects are clearly outside of Elexicon’s typical annual capital program. Elexicon submits that it has met the “materiality” criteria, including the project-specific materiality test, of the ICM eligibility test for each of the ICM Projects.

2. Need

- **Is the evidence sufficient to approve ICM funding in 2023?**
- **Are the project’s components severable? If so, should the components be phased in over time?**

a. Need

63. Elexicon recognizes that innovation is a key component of a thriving and sustainable energy sector as it evolves its business with the energy transition.
64. Elexicon proposed these two ICM Projects in direct response to the expectation of the OEB and the Government of Ontario that distributors will evolve their planning, operations and overall business to continue to provide cost-effective, reliable service, while improving system resiliency and making investments that consider the impacts of widespread DER adoption.⁵³
65. The ICM Projects are consistent with:
- a) The Province of Ontario’s objective to build 1.5 million new homes over 10 years, and its policies to reduce the bureaucratic costs and red tape that are delaying construction and pushing home prices even higher.⁵⁴

⁵² Application at Appendix B at Section 3.1.2.

⁵³ Application, Appendix B, page 12, lines 17-23.

⁵⁴ <https://www.ontario.ca/page/more-homes-built-faster>

- b) The OEB’s objectives to facilitate innovation, electricity conservation, reliability, economic efficiency and cost effectiveness in the electricity sector. This was most recently illustrated in the OEB’s March 2023 Innovation Handbook, which notes:

“The Sault Smart Grid (SSG) Project proposed by PUC Distribution is a community-wide smart grid which, when completed, will cover PUC Distribution’s entire service area. The SSG Project was brought before the OEB as an application for Incremental Capital Module (ICM) funding and approved by the OEB in a Decision and Order issued on April 29, 2021. The SSG Project implements various technologies such as Voltage/VAR Optimization, Distribution Automation and Advanced Metering Infrastructure which have been implemented by other distributors. This project is being funded in part by NRCan as well as ratepayers.”⁵⁵

- c) The Minister of Energy’s November 15, 2021 mandate letter to the OEB.⁵⁶
- d) The Minister of Energy’s October 21, 2022 letter of direction to the OEB.⁵⁷

“The OEB should continue to prioritize its work facilitating and enabling innovation and adoption of new technologies where it makes sense for customers, including implementation of the government’s Green Button and Community Net Metering initiatives.”

“Developing policies that support the adoption of non-wires and non-pipeline alternatives to traditional forms of capital investment, where cost-effective, will be essential in maintaining an effective regulatory environment amidst the increasing adoption of Distributed Energy Resources.”

“Increased adoption of EVs is expected to impact Ontario’s electricity system in the coming years and the OEB must take steps to facilitate their efficient integration into the provincial electricity system, including providing guidance to Local Distribution Companies (“LDC”) on system investments to prepare for EV adoption.”

⁵⁵ OEB Innovation Handbook issued March 2023 at page 13.

⁵⁶ Application, Appendix B at Section 2.1.1 and JT1.14 at Attachment 1.

⁵⁷ JT1.14 at Attachment 2.

“The OEB should continue to ensure that the structure and operations of the distribution sector constantly evolve towards optimal efficiency. To that end, the OEB should explore opportunities to enable proactive investment in energy infrastructure, such as protection and refurbishment, where utilities can prove there are long-term economic and reliability benefits to ratepayers.”

“The government’s vision for a clean energy grid that promotes electrification, attracts investment and creates jobs while continually enhancing reliability, resiliency and customer choice will require utilities to make new investments.”
[Emphasis added]

- e) The OEB’s 2023 Filing Requirements for Electricity Distribution Rate Applications.⁵⁸
- f) The OEB’s December 20, 2021 Conservation and Demand Management Guidelines.⁵⁹
- g) And most recently, the OEB’s expectations of electricity distributors as set out in the January 2023 *Framework for Energy Innovation* report, which provides:

“The OEB expects distributors to modify their planning and operations to prepare for DER impacts on their systems, including integrating these resources cost-effectively, while maintaining reliable service for their customers. Distributors are also expected to consider DER solutions as NWAs when assessing options for meeting system needs.”⁶⁰

- 66. Prior to filing this Application, Elexicon retained METSCO to complete a 2022-2041 peak load forecast, to get a sense of what the long-term impact of the significant growth in the Durham Region would have on its distribution system. The region is growing at such a rapid rate that, even though Elexicon has just completed a material investment in

⁵⁸ Application, Appendix B at Section 2.1.2.

⁵⁹ Application, Appendix B at Section 2.1.4.

⁶⁰ OEB, *Framework for Energy Innovation: Setting a Path Forward for DER Integration*, January 2023, at pages 3.

incremental capacity with the Seaton TS, METSCO was forecasting an incremental capacity need arising as early as 2030.⁶¹

67. If Elexicon is to have any chance to defer or avoid that future capacity need, it would need to get started on a plan now.
68. Elexicon also hired METSCO to complete a feasibility study on the Whitby Smart Grid Project to determine whether or not the project made sense for the Town of Whitby.⁶² The feasibility study proved positive and the benefits the Whitby Smart Grid Project could deliver significant benefits to the customers in Whitby.⁶³
69. In this context, Elexicon has identified the key drivers for the two ICM Projects in the Application.⁶⁴ In summary, those key drivers have been and continue to be:

a) Time is of the Essence

- i.* The answer to the question “why now?” as it relates to the Whitby Smart Grid is set out in the Application.⁶⁵ In short, Elexicon is proposing the Whitby Smart Grid Project to modernize its distribution system by 2025 so as to be in a position to begin integrating, accommodating and managing sufficiently high-levels of DER penetration between 2026-2030 so as to actually have (1) those resources available; and (2) sufficient experience managing those resources so that Elexicon’s planners can actually rely on those DERs to defer or avoid projected future material upstream capacity investments that are forecasted to be required as early as 2030.⁶⁶

⁶¹ Appnedix B-4.

⁶² Appendix B-5.

⁶³ Appendix B-5 at pages 8-10.

⁶⁴ Application, Appendix B at Section 2.2.

⁶⁵ Application, Appendix B-1 at Section 3.

⁶⁶ See also Appendix B-4 at Tables 12-14.

- ii. Elexicon is proposing the Sustainable Brooklin Project now in direct response to the needs of the Brooklin Landowners Group Inc. (“BLGI”),⁶⁷ which indicates that it needs the Brooklin Line as soon as possible.⁶⁸

b) *Facilitating third party owned DER adoption*

- i. Both ICM Projects are intended to facilitate and accommodate third-party owned DER adoption in the Whitby Rate Zone.
- ii. As described in Appendix B-1 and B-5 of the Application, the Whitby Smart Grid Project will, through Distribution Automation (DA) improve system reliability while introducing automated switching that will allow for a complex switching situation such as a high DER penetration environment; through VVO drive energy conservation benefits for customers today while managing rapid voltage variations caused by increased penetration of DERs; and through ADMS directly control and dispatch third party DERs to meet system needs.
- iii. As described in Appendix B-2 of the Application, the Sustainable Brooklin Project will facilitate the creation of a new residential community in North Brooklin with elevated levels of DER and EV ready homes by facilitating the removal of key barriers to DER and EV adoption in that community.

c) *Storm Hardening and Improving Reliability*

- i. With the increased prevalence of extreme weather events caused by climate change, such as the unprecedented May 21, 2022 derecho storm event that is itself the subject of a separate Z-factor application,⁶⁹ the Whitby Smart Grid Project will deploy FLISR technologies into the WRZ that will monitor for faults within the system, and when there is a fault or loss of power will

⁶⁷ The term customer is clearly defined in the *Distribution System Code* to include “developers of residential or commercial sub-divisions” like BLGI and their members.

⁶⁸ Transcript dated March 31, 2023 at page 26, line 21 to page 27, line 15.

⁶⁹ EB-2022-0317. A copy of the initial z-factor application was filed as an attachment to JT2-5.

isolate the segment in fault and promptly restore power to the segments that are not in fault.⁷⁰ The result is material improvements to reliability (SAIFI would go from 0.87 to 0.28 and SAIDI would go from 1.03 to 0.45 based on the outages in the period in the study) and a reduction in costs associated with locating faulted sections and switching.⁷¹

d) Energy savings and conservation opportunity

- i. Volt-Var Optimization (VVO) combined with Conservation Voltage Reduction (CVO) is an advanced application that enables Elexicon to optimally manage voltage levels and reactive power to reduce system losses, peak demand, energy consumption and operate with high penetrations of DERs.⁷² The result is a 3% a forecasted energy savings, and associated greenhouse gas reductions.⁷³

e) NRCan Funding

- i. As described in Appendix B-1, Elexicon has secured approximately \$4 MM in NRCan funding to deploy the ADMS, the brains and software based backbone of the Whitby Smart Grid Project. The NRCan funding will expire if the project is not completed by 2025. The ADMS can, when paired with the complementary hardware technologies incrementally facilitate a variety benefits. For example, the CVO module when paired with VVO technologies can deliver the energy savings noted above. The FLISR module, when paired with DA can deliver the reliability improvements noted above. The Distributed Energy Resource Management System (DERMS) will allow Elexicon to control and monitor DERs on its system. Finally, the

⁷⁰ Appnedix B-1 at page 36, line 9 to page 40, line 9.

⁷¹ Appendix B-1 at Table 20.

⁷² Appendix B-1 at page 32, line 1 to page 36, line 7.

⁷³ Appendix B-1 at Table 16.

Advanced Metering Infrastructure (AMI) upgrade will facilitate the latest generation of smart meters.

70. The Application⁷⁴ demonstrates how both ICM Projects are foundational investments in the distribution system and the first step enabling a broader plan that involves two DER Enabling Programs focused on incenting incremental third party owned DER capacity. The first DER Enabling Program will be modelled on a typical CDM marketing program, including the potential of on-bill financing opportunities. The second DER Enabling Program will be modelled on the creation of local capacity and energy markets modelled on the successful *York Region Non-Wires Alternatives Demonstration Project*.⁷⁵ The Whitby Smart Grid Project is a necessary distribution system improvement that will allow for the DER Enabling Programs. The Sustainable Brooklin Project will, by reducing barriers to DER adoption in North Brooklin, facilitate the success of the DER Enabling Programs.
71. As shown in undertaking J2.11, Elexicon’s proposal regarding: (a) full implementation of the Whitby Smart Grid in 2025 yields the highest net benefits to customers; and (b) the maximum NPV of net benefit is achieved with the ICM Projects being put in-service in 2025.⁷⁶ Elexicon’s currently proposed approach yields a higher NPV than a phased approach.⁷⁷

b. Means Test

72. In order to be eligible for ICM funding, a distributor must pass the “Means Test” (as defined in the ACM Reports) by showing that its regulated return is less than 300 basis points above the deemed return on equity (“ROE”) embedded in the distributor’s rates.⁷⁸
73. In its February 21, 2023 responses to OEB Panel Questions, Elexicon confirmed on the public record that its forecasted return on equity in each of 2022, 2023, 2024 and 2025 will

⁷⁴ Appendix B at Section 2.3.3 and Appendix B-3.

⁷⁵ <https://www.ieso.ca/en/Sector-Participants/Engagement-Initiatives/Engagements/IESO-York-Region-Non-Wires-Alternatives-Demonstration-Project>

⁷⁶ Undertaking J2.9, pg 2 & footnote 6.

⁷⁷ Undertaking J2.11

⁷⁸ Original Report, page 15.

not exceed 300 basis points over the 2023 deemed return on equity approved by the OEB.⁷⁹ In addition, Elexicon filed its actual forecasted return on equity for each of these years in response to JT1.18 on a confidential basis. Finally, Elexicon’s actual ROE was 6.87% in 2021.⁸⁰

74. On the evidence Elexicon meets the Means Test.

c. Discrete Project and Outside Current Rate Base

75. ICM funding is no longer limited to non-discretionary projects during the Price Cap IR Term. Any discrete project (discretionary or otherwise) adequately supported is eligible for ICM funding subject to capital funding availability flowing from the formula results.⁸¹

76. Each of the ICM Projects are discrete projects that are not funded through existing rates.

77. Elexicon is requesting ICM funding for projects that are outside the annual capital program during the extended rebasing period. Elexicon does update its capital plan on an annual basis. The most current annual capital program is described in detail in SEC-13.

78. The ICM Projects are therefore outside of the base upon which current rates were derived. The incremental capital requested in this ICM is directly related to the cost for developing and deploying the ICM Projects. The incremental revenue requested is net of government funding and the incremental revenue requested will not be recovered through other means. Finally, Elexicon is not due to rebase until the late 2020s which is a very long time to wait to meaningfully facilitate DER uptake.

79. Therefore, Elexicon submits that it has met the “need” criteria of the ICM eligibility test.

3. Prudence

- **Are the risk/cost vs. benefits appropriate?**
- **Is the proposal the most cost-effective option for ratepayers?**

a. Are the risk/cost vs. benefits appropriate?

⁷⁹ Responses to OEB Panel Questions, Additional Question #1, February 21, 2023.

⁸⁰ Application, Appendix B, at s.3.2.1.

⁸¹ See the Original Report at Section 4.1.3.

80. On January 30, 2023, the OEB issued its *Framework for Energy Innovation Report* pursuant to which, the OEB indicated that it will adopt a Benefit Cost Analysis Framework (BCA Framework) that distributors can use to develop business cases for DERs as NWAs and support proposals in their rate applications. The OEB also determined that:

*“Distributors should not wait until after the OEB has finalized its BCA Framework to consider DER solutions and seek OEB approval for distribution rate funding, where appropriate. Distributors may choose to use a conventional discounted cash flow analysis to compare the costs and benefits of a DER solution for their customers against a traditional wires approach and make the business case in a rate application. Until the OEB provides additional guidance, distributors should explain how they have considered those costs and benefits as part of the information provided for material investments proposed for recovery in rates. Distributors may also give consideration to broader energy system impacts, as appropriate.”*⁸²

81. In this context, Elexicon has utilized a conventional discounted cash flow analysis to compare the costs and benefits of the Whitby Smart Grid Project to make the business case in this application. The DCF model utilizing various assumptions is available on evidence at JT1.21 and J2.11 in the tab titled “EE-Including Reliability”. This analysis showed that the Whitby Smart Grid will deliver significant net benefits to customers. Elexicon has explained throughout the evidence how it has considered both the costs and benefits in this benefit-cost analysis. In this context, Elexicon submits that the Whitby Smart Grid Project benefits cost analysis is appropriate.

b. The Whitby Smart Grid Project

82. Elexicon completed a comprehensive analysis of the options surrounding its pursuits of the Whitby Smart Grid Project:⁸³
- a) Pursue, develop and deploy the WSG Project by 2025 following OEB approval, utilizing the NRCan funding, as proposed in the Application (“**Option A**”);

⁸² OEB, Framework for Energy Innovation Report, January 2023, page 23.

⁸³ Application, Appendix B, section 4.1.1; Application, Appendix B-1, section 4.

- b) Pursue, develop and deploy the WSG Project by 2028, using Elexicon’s existing capital expenditure allocation, in order to spread out the costs of the WSG Project on Elexicon’s ratepayers, forfeiting NRCan funding (“**Option B**”); and
 - c) Not pursue or develop the WSG Project at all (“**Option C**”).
83. In assessing these alternatives, Elexicon focused on identifying the alternative that would be the most cost-effective option over the long-run, considering both costs and benefits, not necessarily the least initial costs for ratepayers.
84. The analysis conducted by Elexicon is detailed in the Application.⁸⁴ And the analysis has been the focus of considerable additional discovery during this proceeding.
85. Traditionally, a utility would introduce technology-based improvements gradually over time into their system to help reduce the impact of incremental costs associated with these improvements on ratepayers. Elexicon did explore this with Option “B”. However, taking a gradual approach to implementation of the Whitby Smart Grid Project has three significant negative implications:
- a) First, the benefits associated with VVO (energy savings), ADMS and FLISR (reliability improvements) would not begin to accrue right away, but would only be introduced slowly over time.
 - b) Second, the benefits associated with VVO (energy savings), ADMS and FLISR (reliability improvements) would not be distributed evenly across all customers, meaning in the early years many customers would be paying incremental distribution costs without any associated benefits.
 - c) Third, it would not result in the full implementation of these DER-enabling technologies with sufficient time to allow Elexicon to have resources available to credibly pursue deferral of asset investments, as discussed in paragraph 69 above.

⁸⁴ Ibid.

86. Based on its analysis, Elexicon found that Option A is the preferred option as it would enable the most ratepayers to realize benefits associated with the Whitby Smart Grid Project sooner thereby maximizing the net present value of benefits over the entire 27-year useful life which results in a NPV of net benefits of \$39.785 MM.⁸⁵
87. While OEB Staff sought to challenge the prudence of Elexicon’s preferred Option A during the oral hearing, when Staff’s analysis was corrected for two obvious errors the NPV of net benefits remains optimal with Option A.⁸⁶
88. Therefore, Elexicon continues to conclude that Option A is the most cost-effective and prudent option for ratepayers.

c. Sustainable Brooklin Project

89. Elexicon also completed a comprehensive analysis of the options surrounding its pursuits of the Sustainable Brooklin Project:⁸⁷
- a) Extend feeders from Whitby TS DESN 1 to serve the North Brooklin area, with funding through this ICM, and with the WSG enabling DER integration capability. Exempt the project from Section 3.2 of the DSC (“**Option A**”);
 - b) Proceed with system enhancement by extending the feeders from Whitby TS DESN 1 to serve the North Brooklin area with developers paying a capital contribution as per the DSC, with the extension of the duration of capital contribution period from 5 years to 15 years; (“**Option B**”);
 - c) Build a new TS to serve the North Brooklin area, funded by Elexicon’s existing rates (“**Option C**”); and
 - d) Utilize existing 44kV feeders to the North Brooklin area, funded by Elexicon’s existing rates (“**Option D**”).

⁸⁵ Undertaking JT1.5.

⁸⁶ Undertaking J2.11.

⁸⁷ Application, Appendix B, section 4.1.2; Application, Appendix B-2, section 4.

90. In assessing these alternatives, Elexicon considered the alternative that would be the most prudent, cost-effective and most efficient option of the three.
91. The analysis conducted by Elexicon is detailed in the Application.⁸⁸ Based on this analysis, Elexicon found that Option A is the preferred option.
92. The Sustainable Brooklin Project provides an opportunity with the quid pro quo to create a high DER community, facilitate DER innovation and credibly pursue deferral of capital investments in the future.⁸⁹ To the extent that Elexicon defers capital investments in the future, all Elexicon customers would benefit from this outcome in terms of cost reductions.⁹⁰
93. Therefore, Elexicon concluded that Option A is the most cost-effective option for ratepayers.

G. ISSUE #6: Is the proposed cost allocation for each project appropriate?

94. Elexicon is not proposing to make any changes to the to the OEB's standard approach to cost allocation and rate design as part of this Application and therefore the proposed cost allocation is appropriate.

H. ISSUE #7: What Conditions of Approval would be appropriate for each project?

95. In the response to Undertaking J2-10, Elexicon provided a draft rate order that includes all the conditions that Elexicon believes would be appropriate for the ICM Projects.
96. Elexicon will consider and respond to any additional conditions that may be proposed in its reply submissions.

⁸⁸ Ibid.

⁸⁹ Oral Hearing Transcript, Vol 2, pg 42, lines 2-7.

⁹⁰ Oral Hearing Transcript, Vol 2, pg 45, lines 1-4.

I. ISSUE #8: If ICM funding is approved, what future reporting and metrics would be appropriate for each project?

97. Elexicon has not proposed any future reporting or metrics for either ICM Projects.
98. Elexicon will consider and respond to any reporting and/or metrics that may be proposed in its reply submissions.

J. ISSUE #9: Other?

1. Purported extension of the customer connection horizon

99. Elexicon adopts, without duplication, the concerns raised in its letter dated March 27, 2023 titled “Evidence Update and Purported Extension of the Customer Connection Horizon” regarding the purported extension of the customer connection horizon by OEB Staff on December 22, 2022.⁹¹

K. CONCLUSION

100. For the foregoing reasons, Elexicon respectfully requests the approval of the ICM funding requests for the ICM Projects, approval of the associated ICM interim rate riders and approval of the requested DSC Exemption.
101. In proposing the innovative ICM Projects, Elexicon is cognizant of the Minister of Energy's push for further electrification and the transition to cleaner energy sources. These proposed innovative solutions are aligned with the OEB's communicated expectations of distributors, the OEB statutory objectives regarding facilitation of innovation, electricity conservation, reliability, economic efficiency and cost effectiveness and the communicated expectations from the Minister of Energy.⁹²

⁹¹ Elexicon, Evidence Update and Purported Extension of the Customer Connection Horizon (EE_ICM_Add'l Evidence_20230327), March 27, 2023, at pgs 3-4.

⁹² Oral Hearing Transcript, Vol 1, pg 113-114, lines 27-6.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 18TH DAY OF APRIL, 2023.

BORDEN LADNER GERVAIS LLP

Per:

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

John Vellone

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