



May 4, 2023

VIA RESS

Ontario Energy Board
P.O. Box 2319,
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Attention: Registrar

Dear Ms. Marconi,

**Re: Elexicon Energy Inc. ("Elexicon")
2023 Distribution Rate Application
Board File No.: EB-2022-0024**

We are counsel to the Distributed Resource Coalition ("**DRC**"). Please find attached DRC's written submissions in the above-noted proceeding, filed pursuant to Procedural Order No. 5.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Vollmer".

DT Vollmer

c. Cynthia Chan, Elexicon
John Vellone, Borden Ladner Gervais LLP
Wilf Steimle, Electric Vehicle Society
Cara Clairman, Plug'n Drive
All Other Parties

Encl.

ONTARIO ENERGY BOARD

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. (“**Elexicon**”) to the Ontario Energy Board for an
Order approving just and reasonable rates and other
charges for electricity distribution to be effective January 1,
2023, and January 1, 2025.

EB-2022-0024

SUBMISSIONS

OF

DISTRIBUTED RESOURCE COALITION

(DRC)

May 4, 2023

INTRODUCTION AND OVERVIEW

1. We are counsel to the Distributed Resource Coalition (“**DRC**”) in Elexicon’s application (the “**Application**”) to the Ontario Energy Board (the “**OEB**” or “**Board**”) under section 78 of the Act, seeking approval for Incremental Capital Module (“**ICM**”) funding in relation to Elexicon’s proposed Whitby Smart Grid Project (“**WSG**”) and Sustainable Brooklin Project (“**SB**”).
2. DRC wishes to indicate its general support for Elexicon’s proposed WSG and SB, recognizing the significant support for the distributed energy resource (“**DER**”) transition that each initiative represents. WSG and SB are part of a response to the accelerating climate and energy transition that works to reduce costs, promote reliability, and establish a credible decarbonization pathway for Ontarians and Elexicon’s customers. Nevertheless, while these submissions discuss the reasons for DRC’s general support of WSG and SB, they also set out areas where Elexicon’s proposals could be improved with appropriate conditions from the Board as part of any approval.
3. DRC is a group of electricity customers and consumers, non-profit organizations, and owners’ associations. DRC’s members are directly affected by and interested in: (i) optimizing existing energy assets; (ii) efficiently facilitating the integration of existing and innovative DERs, including electric vehicles (“**EVs**”), to achieve customer and grid solutions; and (iii) providing input on direct customer needs and local distribution company opportunities relating to EVs. DRC’s members for this proceeding include the Electric Vehicle Society and Plug’n Drive.
4. The use and integration of DERs, including EVs, is unfolding at an accelerating pace. The transition to these distributed technologies gives rise to a need for accurate data and effective monitoring in order to ensure that progress towards electrification and a net-zero future proceeds smoothly and reliably, with appropriate incentives in place. An appropriately strategic approach will also avoid decisions that may resolve short-term problems (or costs) but undermine the prospects for and opportunities arising from a clean and distributed grid in the longer term.
5. The transition similarly underscores the importance for the Board to consider, on an ongoing basis, the potential capital and operational impacts of bidirectional electricity flow on the distribution grid. The Board should seek to ensure that the decisions it renders and the

approvals it provides anticipate and accommodate this transition in such a way that the goal of just and reasonable rates over the longer term is achieved.

6. The increasing effects of climate change only heighten the importance that the Board ensure that the proposals it approves anticipate the transition to DERs including EVs. The increasing frequency and impacts of adverse weather events underscore the importance of adapting to climate change through the wider adoption of DERs and properly facilitating the already accelerating transition at the customer level.
7. DRC's submissions on the Application are intended to assist the Board in understanding the new and evolving impact of DERs on traditional rate determinants and distribution system planning. DRC makes these submissions for the purpose of assisting the Board in:
 - (i) optimizing proposed and existing distribution system assets and investments for the long-term benefit of all customers;
 - (ii) efficiently facilitating the integration and connection of existing and innovative DERs to achieve long-term customer and grid efficiencies; and
 - (iii) better understanding customer needs, preferences, and opportunities relating to DERs.
8. Accordingly, DRC's submissions will focus on the following matters from the Board's suggested submission topics:
 - (a) Have the OEB's ICM criteria been met for the WSG and SB projects?
 - (b) What Conditions of Approval would be appropriate for each project?
 - (c) If ICM funding is approved, what future reporting and metrics would be appropriate for each project?
 - (d) Has the Customer Engagement for these projects been appropriate?

Submissions

I. Have the OEB's ICM criteria been met for the Whitby Smart Grid and Sustainable Brooklin projects?

The Accelerating Transition to DERs

9. There is a rapidly increasing need for initiatives like WSG and SB that will both facilitate and accommodate the ongoing global transition to DERs, including EVs.

10. The International Energy Agency (“**IEA**”) has reported that global sales of EVs surpassed 10 million units in 2022. The IEA forecasts that sales will increase by 14% in 2023 to reach over 14 million units globally for the year. This means that electric cars will claim approximately 18% of sales in the overall car market, which is an increase from approximately 4% in 2020. Sales of EVs in the United States alone increased by 55% in 2022,¹ and were 14% of all vehicle sales in Ontario last year.²
11. Commentators expect these trends to continue. Boston Consulting Group (“**BCG**”) reports that pure battery EVs will be the most popular type of light vehicle sold globally starting in 2028. BCG’s forecasts show that the transition to EVs is proceeding more quickly than observers have previously anticipated, such that BCG expects that sales of pure battery EVs will “far outweigh those of internal combustion engines ... by the turn of the decade.”³
12. The IEA’s Net Zero Emissions by 2050 Scenario anticipates similar milestones.⁴ The IEA describes EVs as essential to decarbonizing the road transportation sector and reports that emissions from cars can achieve the reductions necessary for its net zero pathways scenario if current sales trends continue. This would an electric car fleet of over 300 million in 2030 and electric cars accounting for 60% of new car sales globally.⁵
13. Similar trends are unfolding in Canada. The federal government recently posted draft regulations that would require that Canadian sales of zero-emission vehicles generally track the IEA’s net-zero pathway targets. The regulations would require automakers to ensure that 20% of new passenger vehicles available for sale in Canada are zero-emission⁶ by 2026, increasing to 60% by 2030 and 100% by 2035. These zero-emission sales targets form part of Canada’s 2030 Emissions Reduction Plan, which represents Canada’s

¹ International Energy Agency, “Demand for electric cars is booming, with sales expected to leap 35% this year after a record-breaking 2022”, April 26 2023: <https://www.iea.org/news/demand-for-electric-cars-is-booming-with-sales-expected-to-leap-35-this-year-after-a-record-breaking-2022>.

² Statistics Canada, “Table_20-10-0024-01 New motor vehicle registrations, quarterly”, April 4, 2023, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=2010002401>. Vehicle type includes battery electric, hybrid electric, and plug-in hybrid electric.

³ Boston Consulting Group, “Electric Cars Are Finding Their Next Gear”, June 9 2022: <https://www.bcg.com/en-ca/publications/2022/electric-cars-finding-next-gear>.

⁴ IEA, “Net Zero by 2050 a Roadmap for the Global Energy Sector”, October 2021, https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroBy2050-ARoadmapfortheGlobalEnergySector_CORR.pdf.

⁵ IEA, “Electric Vehicles Technology Deep Dive”, September 2022: <https://www.iea.org/reports/electric-vehicles>.

⁶ Battery electric, plug-in hybrid electric, and fuel cell electric vehicles are all classed as zero-emission vehicles for the purposes of the regulation.

roadmap to reach its climate commitments, including reducing national GHG emissions by 40 to 45% below 2005 levels by 2030 under the Paris Agreement.⁷

14. The installation and use of solar power on a global level shows signs of a similar growth trajectory similar to trends for EVs, although DRC concedes that Ontario has yet to fully embrace these trends. The IEA reports that “annual solar [photovoltaic (“**PV**”)] capacity additions are expected to more than quadruple from 134 GW in 2020 to 630 GW by 2030, with nearly 100 million households equipped with distributed PV panels by the end of this decade.”⁸ Solar accounted for 50% of all new electricity-generating capacity added in the U.S. in 2022, the largest annual share in the industry's history. Residential solar installations experienced 40% growth over 2021.⁹

The Essential Role of Utilities in Responding to and Supporting the Energy Transition

15. This ongoing energy transition will produce both benefits for consumers and challenges for utilities. The benefits include enabling utilities to defer or avoid investment in distribution infrastructure by leveraging the value of widespread adoption of DERs. DERs will at times represent a cost-efficient alternative to or means to defer traditional grid infrastructure investments.
16. The Minister of Energy’s November 15, 2021, mandate letter to the OEB (the “**Mandate Letter**”) recognizes the imperatives arising from this energy transition that the current context presents by, among other things, establishing the complementary goals of incentivizing the adoption of non-wires alternatives as well as managing the effective integration of EVs as a rapidly increasing number of customers adopt these alternatives.¹⁰
17. Utilities therefore have an essential role to play both in terms of responding to and facilitating the transition to EVs. The mass adoption of EVs depends in part on the ability of utility

⁷ Canada Gazette, Part I, Volume 156, Number 53: Regulations Amending the Passenger Automobile and Light Truck Greenhouse Gas Emission Regulations: <https://canadagazette.gc.ca/rp-pr/p1/2022/2022-12-31/html/reg1-eng.html>.

⁸ IEA, “Unlocking the Potential of Distributed Energy Resources”: https://iea.blob.core.windows.net/assets/3520710c-c828-4001-911c-ae78b645ce67/UnlockingthePotentialofDERs_Powersystemopportunitiesandbestpractices.pdf, pp. 17-18.

⁹ Solar Energy Industries Association, “U.S. Solar Market Insight”: <https://www.seia.org/us-solar-market-insight>.

¹⁰ Application at Appendix B, p. 13 of 56.

companies to invest in the grid infrastructure necessary to support the smart management of intermittent assets, peaks in electricity demand, and two-way energy flow.¹¹

18. Investments in matters such as incentivizing and installing home-charging infrastructure will also dictate the pace, efficiency, and global cost of the transition to EVs, especially given the expectation that most Canadians will charge their EVs at home, mainly overnight.¹² The strategies developed and implemented will determine the extent to which EVs become a source of grid stability rather than a source of increased challenges for Ontario's grid.¹³
19. Inadequate preparation for the integration of DERs would present at least three longer-term risks to customers:
 - (a) suppressing customer choice in the short term due to constraints in the distribution system to support DERs;
 - (b) creating power quality and reliability of supply issues as a result of intermittent, uncontrolled generation from DERs, and the increasing frequency and duration of interruptions to grid supply from adverse weather conditions; and
 - (c) reactive and expensive upgrades to distribution infrastructure in response to these risks.

WSG and SB Represent Effective Early Responses to the Challenges of the Energy Transition

20. Utilities will need clear and ambitious roadmaps if they are to successfully navigate these challenges and support the objectives set out in the Mandate Letter. Strategies must include incremental actions, including capital investments, which should be undertaken now alongside continuing efforts to identify and prepare for future needs. These investments should typically include smart digital systems capable of managing DERs in real time and providing better insight into developments at a more localized level, which will be increasingly necessary to ensure that transitioning grids remain reliable, accessible, and

¹¹ PWC Canada, "Accelerating Canada's Electric Vehicle Transition": <https://www.pwc.com/ca/en/industries/automotive/publications/accelerating-canadas-electric-vehicle-transition.html>.

¹² KPMG, "The road to adoption: building EV infrastructure and smart grids", June 20 2022: <https://kpmg.com/ca/en/home/insights/2022/06/the-road-to-adoption-building-ev-infrastructure.html>.

¹³ IEA, "Electric Vehicles Technology Deep Dive", September 2022: <https://www.iea.org/reports/electric-vehicles>.

efficient. Experts generally recognize that a distributed energy resource management system (“**DERMS**”) is a similarly valuable tool for the coordination and control of DERs across a grid.¹⁴

21. Elexicon’s proposed WSG is generally consistent with the approaches described immediately above. WSG contains several key infrastructure upgrades that are increasingly necessary for any successful management of the challenges of growing levels of DER penetration. The most significant elements of WSG towards an optimal integration of DERs into the existing grid include:¹⁵

- (a) the use of Distribution Automation as part of the introduction of automated switching;
- (b) the introduction of Volt-Var Optimization, Conservation Voltage Reduction, and an Advanced Distribution Management System as part of efforts to manage voltage levels and system needs;
- (c) the establishment of a DERMS to control and monitor DERs connected to the grid; and
- (d) upgrades to Advanced Metering Infrastructure to allow for the use of smart meters.

22. It is also important to emphasize the long-term cost-savings that Elexicon’s proposals create for customers. Elexicon correctly notes that the cost of future retrofits would greatly exceed the cost of installation at the time of initial construction that is identified as part of SB.¹⁶ Given the energy transition trends described above, DRC strongly supports Elexicon’s efforts to find ways to minimize the initial costs that will inevitably form part of the transition’s early stages.

¹⁴ See, for example, the IEA’s “Unlocking the Potential of Distributed Energy Resources”, especially at pp. 10, 24-25: https://iea.blob.core.windows.net/assets/3520710c-c828-4001-911c-ae78b645ce67/UnlockingthePotentialofDERs_Powersystemopportunitiesandbestpractices.pdf. See also IEA Commentary, “Distributed energy resources for net zero: An asset or a hassle to the electricity grid?”, September 9 2021: <https://www.iea.org/commentaries/distributed-energy-resources-for-net-zero-an-asset-or-a-hassle-to-the-electricity-grid>. See also Power, “Not Always Plug and Play—Challenges Utilities Face Managing DERs on Their Grids”, August 19 2021: <https://www.powermag.com/not-always-plug-and-play-challenges-utilities-face-managing-ders-on-their-grids/>.

¹⁵ Elexicon’s Argument-in-Chief summarizes these elements at para 69.

¹⁶ See, for example, Elexicon’s Argument-in-Chief, para 31.

II. What Conditions of Approval would be appropriate for each project?

23. Notwithstanding the strengths of the WSG and SB proposals, Elexicon's proposed order suffers from three notable deficiencies, which we summarize here and address in further detail below. DRC submits that each of these deficiencies can be remedied with appropriate conditions of approval:
- (a) Elexicon's WSG proposal only partially addresses the significant information gaps that make it more difficult to realize the full potential of DERs. Elexicon's proposal to address these deficiencies in the future through its DER enabling program may resolve at least some of these issues, but conditions setting out the Board's expectation that Elexicon will begin collecting specific forms of information at the earliest opportunity will help to ensure that any approved project achieves its full potential.
 - (b) The conditions of approval should ensure that developers suffer a financial penalty (as opposed to being incentivized financially) should they fail to provide the required installations. Accordingly, the conditions should reflect the cost to the future homeowner should a developer fail to perform the required installation, not the cost to the developer of performing the work in the first place. In the alternative, at the very least, the conditions should reflect the actual cost to a developer of performing the work, not the pre-inflation cost that currently serves as the basis for Elexicon's proposal.
 - (c) The conditions of approval should include a requirement for effective oversight and/or a reporting mechanism to ensure that developers perform the installations required of them. This could include a requirement for random inspections to ensure the adequacy of the installations, as well as a mechanism so that future homeowners can report appropriate issues. It should also include requirements for Elexicon to pursue developers in the event the installations are not adequately completed, as well as consideration of how any resulting penalty payments should be directed.

Elexicon Should Do More to Address Information Gaps Relevant to DERs

24. A challenge that Elexicon has only partially addressed relates to the information gaps relevant to DERs. Its WSG includes significant elements that will do much to provide the understanding relevant to effective functioning of the grid, but more can be done to understand the behaviour and customer motivations relevant to both enabling and supporting the ongoing energy transition.
25. Many of the challenges relating to increased DER penetration arise from a grid operator's traditional inability to monitor a customer's behind-the-meter activities.¹⁷ The IEA has identified this lack of visibility as a significant obstacle to DER integration, as well as an impediment to the ability to identify specific opportunities in relation to energy transition.¹⁸ It characterizes the problem as follows:

The primary obstacle for regulators and system operators in making practical, cost-effective decisions, however, is their lack of adequate visibility over the behind-the-meter resources and the distribution grid. Only some static data, such as the location and power capacity of distributed PV systems, are collected through retail market programmes such as net energy metering, and many low-voltage grids are typically not equipped with network monitoring equipment.

Having such limited visibility can impact every aspect of grid operations and planning. For instance, forecasting consumer demand is becoming more difficult because power consumption is increasingly variable, and the use of distributed PV systems makes predicting consumer net loads even more complex. For example, system operators find it very challenging to plan for periods when clouds block the sun and distributed PV installations are unable to meet demand...¹⁹

26. The IEA recommends the following categories of measures on the part of policymakers, regulators, and system operators to address the information gap:

¹⁷ IEA Commentary, "Distributed energy resources for net zero: An asset or a hassle to the electricity grid?", September 9 2021: <https://www.iea.org/commentaries/distributed-energy-resources-for-net-zero-an-asset-or-a-hassle-to-the-electricity-grid>.

¹⁸ IEA, "Unlocking the Potential of Distributed Energy Resources", pp. 8-10: https://iea.blob.core.windows.net/assets/3520710c-c828-4001-911c-ae78b645ce67/UnlockingthePotentialofDERs_Powersystemopportunitiesandbestpractices.pdf.

¹⁹ *Ibid.*, pp. 24-25.

- (a) Identify data gaps and plan to remedy them to obtain fit-for-purpose levels of visibility over the sector.
 - (b) Make the most of available data sources and create robust data management systems.
 - (c) Develop a single flexibility resource registry common to all market participants and explore more-granular data collection options.
 - (d) Improve short-term demand forecasting, dynamic network modelling and long-term capacity planning.²⁰
27. Specific measures that the IEA recognizes jurisdictions have taken include the collection of anonymized data on matters such as installed capacity, the makes and models of equipment installed, resource location, energy source, installed capacity, and import and export capacities.²¹
28. Elexicon recognizes the problem of a data gap²² and also correctly argues that addressing the issue presents an opportunity to create a baseline of quantifiable evidence on DER/EV uptake in the region.²³
29. Elexicon’s proposed solution, in addition to the data-gathering elements of WSG described above and in Elexicon’s materials, is to return to the Board at a future date with a “comprehensive DER Enabling Program application” in the event that both WSG and SB receive approval.²⁴ Elexicon’s current estimate is that it would return to the Board with its proposal approximately six months after an approval of WSG and SB.²⁵
30. The DER Enabling Program has not yet been finalized²⁶ and will be informed in part by anticipated stakeholder consultations,²⁷ but Elexicon has provided its preliminary thinking concerning the program’s likely contours. They include:

²⁰ IEA, “Unlocking the Potential of Distributed Energy Resources”, p. 10.

²¹ *Ibid.*, p. 58.

²² Transcript of Elexicon Hearing, Volume 2, April 3 2023 (**Day 2 Hearing Transcript**), p. 77.

²³ IR Responses STAFF-23 at Question B and STAFF-30 at Question B.

²⁴ Elexicon’s Argument-in-Chief, para 31.

²⁵ Day 2 Hearing Transcript, p. 82.

²⁶ *Ibid.*, p. 78.

²⁷ *Ibid.*, p. 78.

- (a) the aspiration that the DER Enabling Program will help to overcome current informational gaps relevant to DER adoption and implementation;
- (b) the intention to include a methodology to compare DER uptake in SB against uptake elsewhere in Whitby, with the objective of publishing evidence concerning the impact of the decision to make homes DER ready;²⁸ and
- (c) efforts to monitor the size and type of DERs connected, anticipating challenges that may come from a reliance on customer self-reporting.²⁹

31. Elexicon has confirmed that it is not currently undertaking any efforts to gather any customer information relevant to DER uptake beyond the relatively small amount of information that appears in their Customer Engagement Survey, even though Elexicon also acknowledges that it would be possible to undertake additional efforts to generate relevant data now,³⁰ subject to its testimony that it would require both DERMS and a DER enablement program:

in order to survey our customer base to understand, I guess, interest in the DER, we would need a DER, or DERMS system. We would also need our DER enablement program, because, without those two things this place, we aren't able to see any sort of behind-the-meter DERs unless those customers actively enrol and participate in that program.

So we would need, essentially, the Whitby SmartGrid program in place to enable that survey to understand the participation that would -- or, the participation or interest of our customers.³¹

32. DRC recognizes the progress that Elexicon's DER Enabling Program would represent, but believes that Elexicon should begin robust efforts at the earliest opportunity to address information deficiencies. DRC submits that requiring Elexicon to begin efforts to generate the most comprehensive data available will make easier future efforts to understand:

- (a) customer behaviour and motivations with respect to DERs;

²⁸ Elexicon's Argument-in-Chief, para 31.

²⁹ Transcript of Elexicon Technical Conference, Volume 2, January 18 2023 (**Day 1 TC Transcript**), pp. 1-3.

³⁰ Day 2 Hearing Transcript, pp. 79-82.

³¹ *Ibid*, pp. 80-82.

- (b) the specific impact of initiatives like WSG and SB; and
 - (c) system reliability and efficiency opportunities generally.
33. DRC therefore submits that an appropriate condition of approval would be a requirement for Elexicon to begin collection of data relevant to DERs at the earliest opportunity through the means that Elexicon or the Board deems most practical, whether more robust customer engagement, the retainer of professional polling services, or otherwise. Efforts to generate anonymized data relating to any or all of the following items would be valuable towards a better understanding of DERs, their use, their impact, and current attitudes towards them, as well as helpful towards establishing a baseline for studies in the future:
- (a) the average load of customers with DERs as compared to those without them;
 - (b) installed DER capacity;
 - (c) makes and models of DER equipment installed;
 - (d) resource location;
 - (e) energy source;
 - (f) customer savings from DERs;
 - (g) maintenance costs of DERs;
 - (h) general satisfaction; and
 - (i) general attitudes and intentions concerning DERs, both among current DER owners and non-owners.
34. In addition, DRC requests that Elexicon be required to begin generating the data relevant to the following items specifically related to the impact of SB at the earliest opportunity:
- (a) the impact of the existence of the rough-ins on any intention on the part of homeowners to purchase DERs;
 - (b) the impact of the existence of the rough-ins on any intention on the part of homeowners to purchase the property in question; and
 - (c) the impact of the existence of the rough-ins on the sale price of the property in question.
35. In the event the Board chooses not to issue an order with the specificity that DRC requests in this section, an alternative approach could be to include as a term of any order that Elexicon return to the Board with a proposal for its DER Enablement Program at the earliest

reasonable opportunity, along with the stipulation that Elexicon's proposal should include consideration and/or proposed treatment of any items that DRC has suggested and the Board deems of value this section.

Appropriate Financial Penalties Should Be in Place

36. Elexicon's draft rate order fails to provide appropriate penalties in the event a residential developer fails to comply with its obligation to construct DER and EV ready homes or buildings. The currently proposed provision sets out a penalty of \$2,260 as follows:

Should a residential developer fail to deliver on the construction of DER-and-EV Ready homes or buildings, as determined by Elexicon, Elexicon shall require that developer or property owner to pay an appropriate capital contribution to Elexicon in support of the Brooklin Line prior to energizing the property. For residential customers, the amount of the capital contribution, as of January 1, 2023, shall be \$2,260 per home or building before Elexicon supplies power. [This amount shall be escalated on an annual basis in accordance with the OEB's inflation parameters.]³²

37. Elexicon's current proposal fails to ensure that developers will suffer a financial penalty should they fail to provide the required installations. In fact, the current proposal may inadvertently incentivize developers not to complete the required projects, since the cost of completing the work exceeds the proposed penalty amount. This is primarily because, according to the evidence of the Brooklin Landowners Group ("**BLG**") and Elexicon, the current proposal fails to account for the recent effects of inflation on the cost of work and materials³³ despite the fact that Elexicon has confirmed that its intention was for the figure to be reasonably reflective of the actual costs of installation.³⁴
38. Elexicon and BLG should be required to confirm the current cost of work before the approval and finalization of any provisions relating to penalties.³⁵

³² Undertaking J2-10, para 5.

³³ Transcript of Elexicon Hearing, Volume 1, March 31 2023 (**Day 1 Hearing Transcript**), p. 72. See also Day 2 Hearing Transcript at p. 73, where Elexicon generally accepts BLG's evidence that inflationary pressures may have increased costs.

³⁴ Day 2 Hearing Transcript, p. 73.

³⁵ *Ibid.*, pp. 73-75.

39. In any event, DRC submits that a more appropriate basis for the calculation of penalty amounts is the cost of future retrofits, not the current cost to developers, since Elexicon has confirmed that it is the cost of a retrofit that a future homeowner will have to pay should a developer breach its obligation to perform the work at the time of the initial construction.³⁶
40. Accordingly, the conditions should reflect the cost to the future homeowner should a developer fail to perform the required installation, not the cost to a developer of performing the work in the first place. In the alternative, the conditions should reflect the current cost of performing the work, not the historical cost that fails to account for the impact of recent inflation and currently serves as the basis for Elexicon's proposal.

Conditions Should Include Effective Oversight and Reporting

41. The conditions of approval should also include a requirement for effective oversight and/or a reporting mechanism to ensure that developers perform the installations required of them. This could include a requirement for random inspections to ensure the adequacy of the installations, as well as a mechanism so that future homeowners can report appropriate issues.
42. Relatedly, there must be an obligation for Elexicon to pursue any non-complying developer if oversight provisions, including penalty provisions, are to be effective. Elexicon's position is that contractual remedies must rest with Elexicon.³⁷ Accordingly, DRC submits that the conditions of approval should include:
 - (a) the requirements for Elexicon to pursue developers in the event the installations are not adequately completed and to seek to enforce relevant penalty provisions; and
 - (b) provisions requiring that any penalty funds be directed to the benefit of ratepayers and not retained by Elexicon.

³⁶ Day 2 Hearing Transcript, p. 75.

³⁷ *Ibid.*, pp. 75-76.

III. If ICM funding is approved, what future reporting and metrics would be appropriate for each project?

43. DRC reiterates its position concerning the importance of greatly expanding the data and metrics concerning DERs that utilities are responsible for providing. DRC has set out its recommendations as to the specific items that should be included in Elexicon's reporting at paragraphs 33 to 35 above.

IV. Has the Customer Engagement for these projects been appropriate?

44. DRC submits that Elexicon's customer engagement has been sufficient for the approvals it seeks. Elexicon's findings that 76% of its customers were highly supportive or somewhat supportive of Elexicon investing in grid management technologies that will help it manage the impact of the energy transition³⁸ are especially instructive for the purposes of this proceeding.
45. Nevertheless, DRC respectfully submits that it is increasingly important that customer engagement in future proceedings begin to move beyond the more basic and general approach that Elexicon has employed here. The Board could signal this expectation in part by requiring Elexicon to provide the additional forms of data that DRC seeks in paragraphs 33 to 35 above, which could help to establish a precedent for similar future proceedings.

RELIEF REQUESTED

46. For the reasons set out above, DRC respectfully requests that the Board approve Elexicon's Application subject to the following conditions:
- (a) Elexicon should begin collection of data relevant to DERs at the earliest opportunity through the most practical means available in relation to the items set out at paragraph 33 above.
 - (b) Elexicon should begin to generate the data relevant to the items specifically related to the impact of SB set out at paragraph 34 above.
 - (c) Paragraph 5 of Elexicon's proposed draft order should be amended such that penalty provisions forming part of any final order reflect the actual cost of retrofits

³⁸ Elexicon's Argument-in-Chief, para 24.

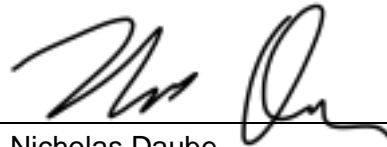
that homeowners would face, rather than any current estimate of installation, as set out in greater detail at paragraphs 38 to 40 above.

- (d) Paragraph 5 should also ensure that any penalty funds be directed to the benefit of ratepayers and not retained by Elexicon, as set out in greater detail at paragraph 42 above.
- (e) Elexicon should be required to pursue developers in the event the installations are not adequately completed and to seek to enforce relevant penalty provisions, as set out in greater detail at paragraph 42 above.
- (f) The conditions of approval should also include a requirement for effective oversight and/or a reporting mechanism to ensure that developers perform the installations required of them. This could include a requirement for random inspections to ensure the adequacy of the installations, as well as a mechanism so that future homeowners can report appropriate issues, as set out at paragraph 41 above.

ALL OF WHICH IS RESPECTFULLY
SUBMITTED THIS
4th day of May, 2023.



Lisa (Elisabeth) DeMarco
Resilient LLP
Counsel for DRC



Nicholas Daube
Resilient LLP
Counsel for DRC