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

DECISION AND ORDER – PHASE 2

EB-2023-0014

ELEXICON ENERGY INC.

Application for rates and other charges to be effective January 1, 2024 – Earnings Sharing Mechanism

BEFORE: **Anthony Zlahtic**
Presiding Commissioner

Fred Cass
Commissioner

May 9, 2024

1. OVERVIEW

This Decision and Order relates to Phase 2 of Elexicon Energy Inc.'s (Elexicon Energy) 2024 distribution rate application.[1] In this Decision and Order, the OEB addresses Elexicon Energy's request for approval of its proposed Earnings Sharing Mechanism (ESM) and deferral account to track any potential over-earning until its next rebasing application.

The OEB approves Elexicon Energy's ESM and the accounting order to track any potential over-earning until its next rebasing application.

[1] In Phase 1 of Elexicon Energy's Incentive Rate-setting Mechanism proceeding, the OEB approved changes to the rates that Elexicon Energy charges to distribute electricity to its customers, effective January 1, 2024.

2. CONTEXT AND PROCESS

Elexicon Energy filed its application on August 16, 2023, under section 78 of the *Ontario Energy Board Act, 1998,* and in accordance with Chapter 3 of the OEB's *Filing Requirements for Incentive Rate-Setting Applications*.

On December 14, 2023, the OEB issued its decision addressing the Price Cap Incentive Rate-setting request but deferred the determination of Elexicon Energy's ESM proposal to a second phase of the proceeding.

Notice for Phase 2 of the proceeding was issued on January 17, 2024. The OEB did not receive any requests for intervention.

Elexicon Energy responded to interrogatories from OEB staff, and a submission was filed by OEB staff on March 19, 2024. Elexicon Energy filed a reply submission on April 2, 2024.

3. EARNINGS SHARING MECHANISM (ESM)

The OEB issued its *Report of the Board: Rate-making Associated with Distributor Consolidation* (MAADs Policy) in 2015.[2] The MAADs Policy provided for an extended deferred rebasing period for consolidating entities. Distributors electing to defer rebasing beyond five years would be subject to an ESM obligation. The OEB stated the following regarding including an ESM requirement as part of the Mergers, Amalgamations, Acquisitions, and Divestitures (MAADs) proceeding:

> The OEB believes that the requirement for the MAAD's application to include an ESM will address ratepayers' concerns that the accumulated savings could amount to a windfall for shareholders.

The ESM would employ a 50:50 sharing mechanism between the utility and customers for any of the consolidated entity's earnings that were more than 300 basis points above the allowed return on equity (ROE) for any extended periods beyond the initial five-year deferral period.[3]

In 2016, the OEB issued its *Handbook to Electricity Distributor and Transmitter Consolidations* that confirmed that "no evidence is required in support of an ESM that follows the form set out in the MAADs Policy."[4]

Background

In Elexicon Energy's MAADs[5] application, the ESM was not proposed. Elexicon Energy explained that the methodology for an ESM was yet to be determined. In its decision on the MAADs application, the OEB directed Elexicon Energy to file its ESM proposal by December 31, 2021.[6]

Elexicon Energy filed its ESM proposal as part of its 2022 Incentive Rate-setting Mechanism (IRM) application but did not seek approval of the ESM. In response to interrogatories[7] during the proceeding, Elexicon Energy amended its application by requesting that the OEB approve its general ESM framework. Elexicon Energy also deferred the request for approval of the underlying details and methodology for

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[2] EB-2014-0138, Report of the Board: Rate Making Associated with Distributor Consolidation, March 26, 2015, p. 6
[3] MAADs Policy, p. 7
[4] Handbook to Electricity Distributor and Transmitter Consolidations, issued January 19, 2016, p. 16
[5] EB-2018-0236
[6] EB-2018-0236, Decision and Order, December 20, 2018, pp. 16-18
[7] EB-2021-0015, Responses to Interrogatories, November 8, 2021, p. 2

calculating the ROE for the newly consolidated entity under the ESM proposal until the 2024-2028 period.[8]

The OEB determined that Elexicon Energy complied with the requirement from the MAADs decision and directed Elexicon Energy to file the ESM proposal as part of its 2024 rates application.[9]

ESM Proposal

Elexicon Energy proposed that beginning in 2024, until the time of its next rebasing, it would share any excess earnings with customers on a 50:50 basis for all earnings that are more than 300 basis points above the OEB's deemed ROE for its consolidated entity.

Elexicon Energy has yet to rebase its costs after its MAADs proceeding and therefore noted in its application that it does not have an approved ROE for Elexicon Energy against which the ESM can be determined. To address this issue, Elexicon Energy proposed that its most recently approved ROE for each of its rate zones (RZ) will be used to develop a weighted average deemed ROE for Elexicon Energy.[10]

Elexicon Energy's calculation of its weighted average deemed ROE is shown in Table 1 below. Elexicon Energy noted that this calculation of its weighted deemed ROE is consistent with how it has been reporting its deemed ROE in its *Reporting and Record-Keeping Requirements* (RRR) filings with the OEB since consolidation.[11]

Table 1: Calculation of Elexicon Energy Weighted Deemed ROE[12]

Description	Veridian RZ	Whitby RZ	Elexicon Energy
OEB-Approved Rate Base ($000's)	$238,106	$75,768	$313,874
Weightings	75.86%	24.14%	100%
OEB-Approved ROE	9.36%	9.66%	9.43%

8 EB-2021-0015, Decision and Order, December 16, 2021
9 EB-2021-0015, Decision and Order, December 16, 2021, p. 16
10 Manager's Summary, Appendix A
11 *Ibid.*
12 Manager's Summary, p. 2

Elexicon Energy's ESM proposal uses a weighted average deemed ROE of 9.43%, based on the deemed ROEs of the predecessor utilities that were approved in their respective rebasing applications. Elexicon Energy's proposal is that the deemed ROE would be weighted by the OEB-approved rate base amounts, from the most recent OEB-approved rebasing applications, for each of its predecessor utilities.[13] In its methodology, Elexicon Energy proposed to calculate the achieved regulated ROE of the year by dividing the current year's adjusted regulatory net income by the deemed equity using the actual inputs for the year.

Elexicon Energy illustrated its ESM proposal by explaining that it will report 50% of the post-consolidation over-earnings, if any, in year six (2024) in the deferral account of the IRM application to be filed in year seven (2025). However, the rate riders will commence in year eight (2026) rates.

In the application, Elexicon Energy proposed that the following revenue, expense and other items are to be excluded from the calculation of the achieved ROE:[14]

- Settlement of any regulatory assets/liabilities including the lost revenue adjustment mechanism
- Changes in taxes/payments in lieu of taxes to which Account 1592 applies, which will be shared through that account rather than through earnings sharing
- Any revenue collected from any incremental capital module recovery rate riders
- Donations

In its response to OEB staff interrogatories, Elexicon Energy confirmed that the above list of revenue and expenses is not comprehensive. Additionally, Elexicon Energy further confirmed that when reporting for RRR section 2.1.5.6 (Regulated Return on Equity), it relies on the ROE Complete Filing Guide (dated March 2016).[15]

OEB staff supported the ESM proposal filed by Elexicon Energy. OEB staff noted that the approach proposed by Elexicon Energy is consistent with the OEB's current regulated ROE methodology under RRR section 2.1.5.6.[16] OEB staff also noted that a similar ESM proposal had been considered and approved by the OEB in Alectra Utilities Corporation's 2020 rate application[17].

In its reply, Elexicon Energy agreed with OEB staff's submission.

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[13] *Ibid.*
[14] Manager's Summary, p. 3
[15] Staff-1b, p. 2
[16] Reported in the *Electricity Reporting and Record-Keeping Requirements* 2.1.5.6
[17] EB-2019-0018

Findings

The OEB approves Elexicon Energy's proposed ESM methodology as filed, effective January 1, 2024, and continuing until Elexicon Energy's next rebasing. The OEB agrees with OEB staff that Elexicon Energy's proposed ESM methodology is consistent with the approval granted to Alectra Utilities[18] and is consistent with the MAADs Policy for recording consolidated earnings as part of an ESM. Specifically, the OEB approves Elexicon Energy's proposed ESM:

- to calculate its weighted deemed ROE using its most recent OEB approved rate base and ROE from the most recent OEB-approved rebasing applications for the Veridian and Whitby RZs
- to calculate achieved ROE in accordance with the RRR 2.1.5.6 reporting requirements
- 50/50 sharing of excess earnings above 300 basis points of its weighted deemed ROE commencing with its year six (2024) audited results, computed annually thereafter until its next rebasing.

[18] *Ibid.*

4. ACCOUNTING ORDER FOR THE ESM ACCOUNT

Elexicon Energy provided a draft accounting order to establish a new deferral account, Account 2435 Accrued Rate-Payer Benefit, commencing with its 2024 audited financial results, to record any excess earnings in accordance with its proposed ESM computed annually thereafter until its next rebasing. The disposition of deferral account balances, if any, will commence effective January 1, 2026.

Elexicon Energy proposed the following accounting entries for the deferral account to record the 50% sharing with customers and interest accrued:

Accounting Entries

Debit	Account 4395 Rate-Payer Benefit including Interest.
Credit	Account 2435 Accrued Rate-Payer Benefit

Elexicon Energy noted that the assessment of earnings will commence as soon as the year six (2024) audited results are available and will continue to be reviewed and computed on an annual basis until the time of Elexicon Energy's next rebasing.

OEB staff submitted that it did not take issue with Elexicon Energy's proposal to record 50% of excess earnings in Account 2435 – Accrued Rate-Payer Benefit. OEB staff noted that the proposal was consistent with the OEB's MAADs Policy and that a similar account was approved in the Brantford Power Inc. and Energy+ Inc. amalgamation[19] proceeding.[20]

Findings

The OEB approves an Accounting Order to establish Account 2435 – Accrued Rate-Payer Benefit to record 50% of earnings of the consolidated entity, determined in accordance with the approved ESM in this Decision, that are more than 300 basis points above the OEB's approved deemed ROE. The OEB has modified Elexicon Energy's proposed Accounting Order to clarify that the ROE to be used to calculate the weighted average deemed ROE is the OEB-approved ROE from the most recent OEB-approved rebasing application for each of the predecessor utilities. The approved Accounting Order is attached to Schedule A to this Decision and Order.

[19] EB-2021-0280
[20] OEB Staff Submission, p. 5

5. ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The earnings-sharing mechanism proposal filed by Elexicon Energy is approved.

2. The Accounting Order set out in Schedule A of this Decision and Order is approved as final effective January 1, 2024.

DATED at Toronto, May 9, 2024

ONTARIO ENERGY BOARD

Nancy Marconi

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Nancy Marconi
Registrar

SCHEDULE A

DECISION AND ORDER

ACCOUNTING ORDER

EB-2023-0014

MAY 9, 2024

Elexicon Energy Inc.
Accounting Order
Account 2435 – Accrued Rate-Payer Benefit

In accordance with the Accounting Procedures Handbook, account “2435 Accrued Rate-Payer Benefit” will be used to record the 50% sharing with customers of the amount, if any, of the achieved regulated earnings of Elexicon Energy that are greater than 300 basis points above the deemed regulated rate of return (“ROE”) for Years 6 to 10 of the rebasing deferral period.

The assessment of earnings will commence with the availability of the Year 6 audited financial results and will continue to be reviewed and computed on an annual basis until the time of Elexicon Energy’s next rebasing. Excess earnings beyond 300 basis points of Elexicon Energy’s deemed ROE will be shared 50:50 with all customers annually.

For the purposes of the ESM, achieved regulatory net income will be calculated in the same manner as regulatory net income for the purposes of the RRR filings, and in accordance with the RRR 2.1.5.6, as it currently exists. Under this methodology, Regulated ROE is calculated by dividing the current year’s adjusted regulatory net income by deemed equity.

The most recently approved ROE from the most recent OEB-approved rebasing application for each of the predecessor utilities will be used to develop a weighted average deemed ROE for Elexicon Energy. This ROE is weighted by the OEB-approved rate base amounts for each rate zone from the most recent OEB-approved rebasing application for each predecessor utility. With this approach the approved ROE on which to base the ESM will be 9.43%.

The following outlines the accounting entries for this deferral account:

Debit Account 4395 Rate-Payer Benefit Including Interest
Credit Account 2435 Accrued Rate-Payer Benefit

To record the 50% sharing with customers of the amount, if any, of the achieved regulated earnings of Elexicon Energy that are greater than 300 basis points above the deemed ROE for Years 6 to 10 of the rebasing deferral period.

Debit Account 4395 Rate-Payer Benefit Including Interest
Credit Account 2435 Accrued Rate-Payer Benefit

To record interest accrued on the principal balance of the Earnings Sharing Variance