

Assurance of Voluntary Compliance

**Pursuant to section 112.7 of the
*Ontario Energy Board Act, 1998***

Elexicon Energy Inc.

EB-2022-0278

December 2, 2022

I. STATEMENT OF FACTS

On April 14, 2022, the Ontario Energy Board (OEB) sent a letter to all licensed electricity distributors in the province advising them that the OEB had recently accepted an Assurance of Voluntary Compliance (AVC) from a distributor that had overcharged customers as a result of incorrectly prorating the fixed monthly charges approved by the OEB under section 78 of the *Ontario Energy Board Act, 1998* (OEB Act). The letter explained:

The AVC arose after a distributor identified that it was overcharging customers due to applying a daily charge that had been incorrectly calculated. While the distributor used the approved fixed monthly charges from its OEB-approved Rate Order, its billing system translated these monthly charges into a daily charge for application to customers' bills. In the translation from monthly to daily charge, the daily charge was calculated on the basis of there being 30 days in every month (or 360 days in a year) but billed customers 365 days a year, leading to an overcharge of each customer.

The letter asked all distributors to review their billing systems and to advise the OEB if they discovered the same proration issue. On April 19, 2022, Ellexicon Energy Inc. ("**Ellexicon**"), a distributor serving approximately 158,509 customers in the Veridian Rate Zone and 59,791 customers in the Whitby Rate Zone, responded to the OEB's letter and self-reported that it had been incorrectly prorating its fixed monthly charges in the same manner. Ellexicon determined that the issue persisted for several years in the Veridian Rate Zone and 15 months in the Whitby Rate Zone. The issue applied to all rate classes, and Ellexicon implemented appropriate system changes to correct the billing calculations.

Ellexicon instituted these changes effective May 1, 2022 consumption period to its customer billing system to ensure customers would not be overcharged due to the incorrect proration of fixed monthly charges.

II. ASSURANCE

Ellexicon acknowledges that, as a result of its billing system configuration, it was over-billing customers more than the OEB-approved fixed charges. To remedy the contravention of the rate orders, Ellexicon assures the OEB that it will take the following measures:

1. In respect of the Veridian Rate Zone:
 - a. Ellexicon will credit current customers a total of \$2,442,589.81 which is equivalent to four years of overcharges (May 1, 2018 to April 30, 2022), calculated in the manner set out in Table 1 of the Appendix to this AVC. The credit includes both (a) the amount that would be required to be reimbursed to customers under section 7.7.7 of the Retail Settlement Code (that is, two years' worth of overcharges plus interest in accordance with section 7.7.9 of the Retail Settlement Code); and (b) without waiving or in any way limiting the rights of Ellexicon pursuant to the Retail Settlement Code, including but not limited to section 7.7.7, or Ellexicon's Conditions of Service, or otherwise, a voluntary additional amount.

- b. The credit will be paid through a lump sum bill credit which will appear on a customer's bill within 90 days of the acceptance of this AVC by the OEB. Every customer in a rate class will receive the same credit amount, as shown in Table 1 of the Appendix, regardless of whether the customer was actually a customer for the entire four-year credit period. At the time of the credit, Elexicon will provide an explanation to customers in a form to be approved by the OEB. The total amount of all credits to be provided is \$2,442,589.81, and will be split across Elexicon's current customer base in the Veridian Rate Zone at the time of credit.

2. In respect of the Whitby Rate Zone:

- a. Elexicon will credit current customers a total of \$218,098.97 which is equivalent to fifteen months of overcharges (February 1, 2021 to April 30, 2022), calculated in the manner set out in Table 2 of the Appendix to this AVC. The credit includes the amount that would be required to be reimbursed to customers under section 7.7.7 of the Retail Settlement Code (that is, fifteen months worth of overcharges plus interest in accordance with section 7.7.9 of the Retail Settlement Code).
- b. The credit will be paid through a lump sum bill credit which will appear on a customer's bill within 90 days of the acceptance of this AVC by the OEB. Every customer in a rate class will receive the same credit amount, as shown in Table 2 of the Appendix, regardless of whether the customer was actually a customer for the entire credit period. At the time of the credit, Elexicon will provide an explanation to customers in a form to be approved by the OEB. The total amount of all credits to be provided is \$218,098.97, and will be split across Elexicon's current customer base in the Whitby Rate Zone at the time of credit.

III. ADMINISTRATIVE PENALTY

Elexicon agrees to pay an administrative penalty to the OEB in the amount of \$7,500. Payment will be made electronically with notice sent to the Registrar, within four weeks of the acceptance of this AVC by the OEB.

IV. CONSUMER RIGHTS

Nothing in this AVC affects any rights a consumer may have under any applicable law.

V. FAILURE TO COMPLY

Elexicon acknowledges that this AVC has the same force and effect as an order of the OEB pursuant to section 112.7(2) of the OEB Act.

VI. EXECUTION OF ASSURANCE

I have the authority to bind Elexicon to the terms set out in this AVC.

Name: Indrani Butany-DeSouza

Title: President & Chief Executive Officer

A handwritten signature in black ink, appearing to read 'Indrani Butany-DeSouza', written over a horizontal line.

Signature: _____

Dated this **2nd** day of **December**, 2022

APPENDIX

Table 1

Verdian Rate Zone	2021 Customer Count	Over Charge Amount	Customer Repayment
Residential	113,409	\$ 2,120,339.27	\$ 18.70
Seasonal Residential	1,557	\$ 51,274.59	\$ 32.93
GS< 50 kW	9,339	\$ 119,729.32	\$ 12.82
GS 50-2,999 kW	1,060	\$ 81,276.87	\$ 76.68
GS 3,000-4,999 kW	6	\$ 19,544.19	\$ 3,257.37
Large Use	4	\$ 24,578.80	\$ 6,144.70
USL	803	\$ 4,098.80	\$ 5.10
Sentinel Lighting	247	\$ 1,005.04	\$ 4.07
Street Lighting	31,736	\$ 19,480.59	\$ 0.61
microFIT	348	\$ 1,262.34	\$ 3.63
	158,509	\$ 2,442,589.81	

Table 2

Whitby Rate Zone	2021 Customer Count	Repayment	Per Customer
Residential	43,441	\$ 193,647.28	\$ 4.46
GS< 50 kW	2,350	\$ 8,948.75	\$ 3.81
GS 50-4,999 kW	398	\$ 11,079.44	\$ 27.84
USL	121	\$ 175.15	\$ 1.45
Sentinel Lighting	47	\$ 40.79	\$ 0.87
Street Lighting	13,214	\$ 4,067.24	\$ 0.31
microFIT	220	\$ 140.32	\$ 0.64
	59,791	\$ 218,098.97	