

ASSURANCE OF VOLUNTARY COMPLIANCE

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

Cytec Canada Inc.

Licence No. EW-2020-0200

OEB File No. EB-2021-0198

July 27, 2021

I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of Cytec Canada Inc. (Cytec) pursuant to the OEB's finding, in proceeding EB-2020-0200, that Cytec continued to operate as an electricity wholesaler in Ontario after its licence had expired in December 2015.¹ Following the inspection, and in resolution of the contravention, Cytec provided this Assurance of Voluntary Compliance to the OEB under section 112.7 of the *Ontario Energy Board Act, 1998* (OEB Act).

II. STATEMENT OF FACTS

On September 18, 2020, Cytec filed an application with the OEB for an electricity wholesaler licence, pursuant to section 60 of the OEB Act. Together with the application, Cytec confirmed that it had been operating as an electricity wholesaler without a license since its previous wholesaler licence expired on December 21, 2015.

The OEB reviewed the application and, on January 14, 2021, issued a Decision and Order granting Cytec a new electricity wholesaler licence (EW-2020-0200).² In the Decision and Order, the OEB noted that Cytec had operated without a licence for a period of five years and that, in so doing, it had contravened section 57 of the OEB Act. The OEB also stated that Cytec may be subject to a potential OEB compliance proceeding with respect to the contravention and that the licence was being granted without prejudice with regard to any future compliance actions.

Operating in the IESO-administered markets without a licence is a contravention of section 57 (e) of the OEB Act, which provides as follows:

¹ Decision and Order, EB-2020-0200, issued January 14, 2021

² *Ibid.*

Requirement to hold licence

57 Neither the IESO nor the Smart Metering Entity shall exercise their powers or perform their duties under the *Electricity Act, 1998* unless licensed to do so under this Part and no other person shall, unless licensed to do so under this Part, ...

(e) purchase electricity or ancillary services in the IESO-administered markets or directly from a generator

Through the filing of its September 18, 2020 application, and subsequent discussions with OEB staff, Cytec explained that the failure to secure a licence was an unintentional oversight due to a change in personnel resulting from a period of organizational changes. Cytec confirmed that it took steps to obtain the licence immediately after discovering the oversight and has since updated its internal procedures in order to ensure that this type of contravention does not occur in the future. Cytec confirmed that it has put in place new system controls to ensure the continuity of its licence requirements. Cytec has revised its procedures to ensure that multiple individuals will be notified when licence renewal is required thus eliminating the risk of missing a renewal, or other correspondence from the OEB, if an individual responsible for licencing moves on from their role.

III. ASSURANCE

Cytec hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57 (e) of the OEB Act that it has a licence for the purpose of purchasing electricity or ancillary services in the IESO-administered markets or directly from a generator.

Cytec also hereby assures the OEB that it will comply with the terms of its electricity wholesaler licence EW-2020-0200, including the obligation under section 8.1 therein to designate a person to act as a primary contact with the OEB on matters related to the licence, and to promptly notify the OEB should the contact details change.

IV. ADMINISTRATIVE MONETARY PENALTY

Cytec agrees to pay an administrative monetary penalty to the OEB in the amount of \$18,000. Payment will be made electronically, together with notice sent to the Registrar, within two weeks of Cytec having received notice of the acceptance of this assurance by the OEB.

V. FAILURE TO COMPLY

This Assurance of Voluntary Compliance has the same force and effect as an order of the OEB pursuant to section 112.7 (2) of the OEB Act and any failure to comply with its terms shall be deemed to be a breach of an order of the OEB.

VII. EXECUTION

I have the authority to bind Cytec Canada Inc. to the terms set out in this Assurance of Voluntary Compliance.

Name: DONALD C. SORLEY

Title: CONTROLLER

Company: CYTEC CANADA INC.

Signature: 

Dated this 27th day of July, 2021.