

ASSURANCE OF VOLUNTARY COMPLIANCE

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

Essar Power Canada Ltd.

Licence No. EG-2019-0291

Licence No. ER-2019-0292

OEB File No. EB-2022-0008

February 17, 2022

I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of Essar Power Canada Ltd. (Essar). The inspection was initiated following the issuance of the OEB's decision and order in proceeding EB-2019-0291/EB-2019-0292 (the Decision), wherein the OEB stated that Essar may have been operating as an electricity generator and retailer without a licence, in non-compliance with the *Ontario Energy Board Act, 1998* (OEB Act).¹ In full and final resolution of the matter, Essar provided this Assurance of Voluntary Compliance to the OEB under section 112.7 of the OEB Act.

II. STATEMENT OF FACTS

Essar is a corporation incorporated under the laws of the Province of Ontario, with its head office in the City of Toronto.

Essar filed applications on December 3, 2019, for an electricity generation licence relating to a 70MW cogeneration facility that it owns and operates in the City of Sault Ste. Marie, Ontario, and for a retailer licence relating to the sale of electricity from the facility to Essar's affiliate, Algoma Steel Inc. The applications were accepted by OEB staff as complete on July 20, 2020.

The evidence filed with the licence applications included information relating to the historical commercial arrangements between Essar and Algoma Steel Inc. Among other things, the evidence indicated that Essar had been generating electricity at the facility and retailing that electricity to Algoma Steel Inc. since 2009 and that, during that period, Essar did not hold valid licences from the OEB to do so.

¹ Decision and Order, EB-2020-0167, issued September 17, 2020

Generating electricity for sale and retailing without a licence are, respectively, contraventions of section 57 (c) and of section 57 (d) of the OEB Act. These sections provide as follows:

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, ...

(c) generate electricity or provide ancillary services for sale through the IESO administered markets or directly to another person

(d) retail electricity

On September 17, 2020 the OEB issued its Decision granting Essar an electricity generator and retailer licence (EG-2019-0291 & ER-2019-0292)². The Decision stated that “it appears that [Essar] had owned its 70 MW cogeneration facility and had been operating as an electricity retailer with sales to Algoma [Steel Inc.], since at least 2009 without the requisite OEB licenses, as required by sections 57 (c) and (d) of the OEB Act.” The OEB found that while issuing the licences was in the public interest, their issuance would be without prejudice to any future compliance and enforcement actions that may be taken by the OEB.

² *Ibid.*

During the inspection, OEB staff met, and exchanged further information, with Essar. Essar agreed to resolve the concerns raised in the Decision by providing the OEB with this Assurance of Voluntary Compliance.

III. ASSURANCE

Essar confirms to the OEB that during the period from 2009 to 2020, it owned and operated the 70 MW cogeneration facility without a generation licence, and that it sold electricity generated at the facility to another person without a retailer licence.

Essar hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57 (c) and (d) of the OEB Act that it has a licence for the purpose of generating and retailing electricity.

IV. ADMINISTRATIVE MONETARY PENALTY

Essar agrees to pay an administrative monetary penalty to the OEB in the amount of \$30,000. Payment will be made electronically, together with notice sent to the Registrar, within two weeks of Essar having received notice of the acceptance of this Assurance of Voluntary Compliance 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.

VI. EXECUTION

I have the authority to bind Essar Power Canada Ltd. to the terms set out in this Assurance of Voluntary Compliance.

Name: Pramod Rao

Title: Chief Financial Officer

Company: Essar Power Canada Ltd.

Signature:  _____

Dated this 17th day of February, 2022.