

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

**Provident Energy Management Inc.**

**Licence No. ES-2018-0237**

**OEB File No. EB-2021-0066**

**February 10, 2021**

## I. INTRODUCTION AND SUMMARY

Ontario Energy Board (OEB) staff conducted an inspection of Provident Energy Management Inc. (Provident). The inspection focused on Provident's compliance with the Unit Sub-Metering Code (USMC) in relation to disconnection notices that it issued to consumers during the period from April 2019 to January 2020. Following the inspection, OEB staff identified, and Provident verified, specific instances of the licensee's non-compliance with various of its consumer disconnection obligations under the USMC, as it was in effect at that time.

In resolution of the contravention, Provident 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

Provident is a unit sub-meter provider and operates under OEB licence, ES-2018-0237.

In the process of reviewing a complaint received by the OEB from a Provident customer, OEB staff identified possible breaches of enforceable provisions by the licensee relating to the disconnection notices that it used during the period April 2019 to January 2020.

In April 2020, OEB staff advised that it was commencing an inspection to assess Provident's compliance with its consumer disconnection related obligations under the USMC. The notice of inspection also required Provident to provide OEB staff with additional information. Provident has been responsive to OEB staff throughout the inspection process. Through the course of the information exchange, Provident confirmed to OEB staff as follows:

- i. Provident issued 43 disconnection notices in April 2019, each of which were not fully compliant with the USMC for one, or more, of the following reasons:
  - The notice did not comply with section 4.2.6 of the USMC, as it was then in effect, in that it failed to provide consumers with the required minimum 10 days' notice prior to the earliest date upon which the consumer was advised

that disconnection may occur. During this period, consumers were given only seven days' notice.

- The notice did not comply with section 4.2.5A(b) of the USMC in that it failed to accurately advise consumers of accurate earliest and latest dates upon which their disconnection may occur.
- The notice did not comply with section 4.2.5A (g) of the USMC, in that it failed to contain a statement advising consumers that a disconnection may take place whether or not the consumer is at the premises.
- The notice did not comply with section 4.2.5A(j)(i)(ii) of the USMC, in that it failed to advise of each of the possible consumer service provisions that may be available to eligible low-income customers, such as the arrears management program and Emergency Financial Assistance, and as to where further information about the additional assistance is available.

ii. Provident issued 299 disconnection notices in January 2020, each of which were not fully compliant with the USMC for one, or more, of the following reasons:

- The notice did not comply with section 4.2.6 of the USMC, as it was then in effect, in that it failed to provide consumers with the required minimum 10 days' notice prior to the earliest date upon which the consumer was advised that disconnection may occur. During this period, consumers were given only nine days' notice.
- The notice did not comply with section 4.2.5A(b) of the USMC in that it failed to accurately advise consumers of accurate earliest and latest dates upon which their disconnection may occur.

iii. Provident issued 702 disconnection notices during the period from May to December 2019, but was unable to provide OEB staff with sufficiently comprehensive information with respect to this period. Provident concedes that, in the absence of being

able to provide OEB staff with detailed information with respect to the notices issued from May to December 2019, it will treat each consumer who received a notice during this period with the same remedial actions taken for consumers who received a non-compliant disconnection notice during the periods of April 2019 and January 2020.

iv. From April 2019 to January 2020, Provident disconnected the electricity service of 261 consumers, and collected approximately \$18,600 in reconnection fees from 253 of these consumers. None of the consumers were disconnected within 10 days of having received a notice.

**Unit Sub-Metering Code, Sections 4.2.5A(b), (g) and (j)(i)(ii), and 4.2.6**

Section 4.2.5A of the USMC provides, in part, that a unit sub-meter provider that intends to disconnect, pursuant to section 31 of the *Electricity Act, 1998*, the property of a residential consumer for non-payment, shall send or deliver a disconnection notice to the consumer that contains, at a minimum, the following information:

(b) the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.5C and 4.2.6;

(g) that a disconnection may take place whether or not the consumer is at the premises;

(j) that the following additional assistance may be available to an eligible low-income customer, along with contact information for the unit sub-meter provider or distributor, as applicable, where the consumer can obtain further information about the additional assistance:

(i) a Board-prescribed arrears management program, and other expanded consumer service provisions, specifically for eligible low-income customer: and

(ii) Emergency Financial Assistance.

Section 4.2.6 of the USMC, as it was in effect at the time of the inspection<sup>1</sup>, provided that a unit sub-meter provider shall not disconnect a consumer for non-payment until the following minimum notice periods have elapsed.

- (a) 60 days from the date on which the disconnection notice is received by the consumer, in the case of a residential consumer that has provided the unit sub-meter provider with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the consumer or on the physical health of the consumer's spouse, dependent family member or other person that regularly resides with the consumer; or
- (b) 10 days from the date on which the disconnection notice is received, in all other cases.

Provident admits that it failed to fully comply with its obligations under the USMC. Provident issued approximately 1,045 disconnection notices that contained, or may have contained, contraventions of one or more of the above-referenced enforceable provisions. Upwards of 1,045 consumers were possibly given between seven and nine days' notice of their possible disconnection, and not a minimum 10 days' notice as prescribed by the USMC, as it was then in effect. Furthermore, at least 43 consumers also received a disconnection notice that failed to advise consumers that a disconnection may take place regardless of whether or not the consumer is at the residence, and failed to advise of all the possible consumer service provisions that may be available to eligible low-income customers, such as the arrears management program and Emergency Financial Assistance, and where further information about the additional assistance is available.

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<sup>1</sup> Provident understands that these timelines have since been extended under new customer service rules put into place by the OEB starting March 1, 2020.

### **III. ASSURANCE**

Provident hereby assures the OEB that it is aware of its obligations under the USMC relating to the consumer disconnection process, and that it takes these obligations seriously. Provident understands the fundamental importance of ensuring that consumers are given at least the prescribed minimum notice period prior to their possible disconnection, and that a notice of disconnection issued to a residential consumer include, at a minimum, all of the elements listed in sections 4.2.5A so that consumers are provided the necessary information to address any potential disconnection. Provident has taken all reasonable steps to ensure compliance with its consumer disconnection-related obligations under the USMC and has completed an internal review to take corrective measures to address the root cause of the non-compliance. Provident has implemented operational changes to ensure that the disconnection notices issued to consumers contain clear and accurate information, and meet all required timelines. Provident assures the OEB that it will implement enhanced record retention processes relating to its interactions with consumers.

Provident has refunded or will promptly refund all reconnection fees paid by those consumers that were disconnected upon having been issued a disconnection notice during the period from April 2019 to January 2020. Provident will deliver a letter, the contents of which will be approved by OEB staff, to each of these consumers, advising them of Provident's non-compliance with the USMC as it specifically relates to the consumer, the reason for the refund of the reconnection fees, and Provident having provided the OEB with this Assurance of Voluntary Compliance.

Provident will not recover the costs related to this Assurance of Voluntary Compliance from its customers.

### **IV. ADMINISTRATIVE MONETARY PENALTY**

Provident agrees to pay an administrative monetary penalty to the OEB in the amount of \$9,000. Payment will be made by cheque or electronically, together with notice sent to the OEB Registrar, within two weeks of Provident being given notice of the acceptance of this Assurance of Voluntary Compliance by the OEB.

**V. CONSUMER RIGHTS**

Nothing in the Assurance of Voluntary Compliance affects any rights a consumer may have under any applicable laws.

**VI. 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 OF ASSURANCE**

I have the authority to bind Provident Energy Management Inc. to the terms set out in this Assurance of Voluntary Compliance.

Name: Ralph Simone  
Title: President  
Company: Provident Energy Management Inc.



Signature:

Dated this 10<sup>th</sup> day of February, 2021