

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

**Wholesale Energy Sys**

**Licence No. ER-2019-0230**

**OEB File No. EB-2020-0127**

**April 30, 2020**

## I. BACKGROUND

Ontario Energy Board (OEB) staff conducted an inspection of Wholesale Energy Sys (WES) pursuant to the OEB's finding, in proceeding EB-2019-0230, that WES had been operating as an electricity retailer in Ontario without a licence from April to November, 2019.<sup>1</sup>

## II. STATEMENT OF FACTS

On September 12, 2019, WES filed an application with the OEB for the renewal of an electricity retailer licence, pursuant to section 57 of the *Ontario Energy Board Act, 1998* (OEB Act). Together with the application, WES self-reported that it had failed to renew its prior electricity retailer licence No. ER-2016-0338, before it expired on April 12, 2019.

The OEB reviewed the application and, on November 28, 2019, issued a Decision and Order<sup>2</sup> granting WES a new electricity retailer licence (ER-2019-0230). In the Decision and Order, the OEB indicated that WES might still be subject to an OEB compliance proceeding with respect to the contravention. The OEB stated:

The applicant has been previously licensed by the OEB, however it did not renew its electricity retailer licence and has been operating without a licence since April 12, 2019. Thus, the applicant has contravened section 57 of the OEB Act, and may be subject to an OEB compliance action.

---

<sup>1</sup> Decision and Order, EB-2019-0230, issued November 28, 2019

<sup>2</sup> *Ibid.*

Operating as a retailer without a licence is a contravention of section 57 of the OEB Act. Section 57(d) of the OEB Act states 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, ...

(d) retail electricity;

Through its September 12, 2019 application filing, and subsequent meetings with OEB staff, WES explained that the failure to secure a renewal of the licence prior to its expiry was an unintentional oversight. WES understands that licensees are sent a notice of renewal approximately 120 days prior to the licence expiry, and that the OEB issues such correspondence to the attention of the licensee's primary contact, as delegated by the licensee.

It was not until WES tried to submit its Reporting and Record Keeping Requirements in September 2019 that it had learned the licence had expired. WES confirmed that, upon discovering the oversight via a review of its records, it took steps to renew the licence and has since updated its internal procedures in order to ensure that this type of contravention does not occur in the future.

**II. ASSURANCE**

WES hereby assures the OEB that it has taken all appropriate measures to comply with the requirement under section 57 of the OEB Act that it has a licence for the purpose of retailing electricity.

WES also hereby assures the OEB that it will comply with the terms of its electricity retailer licence ER-2019-0230, including the obligation under section 12.1 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

WES agrees to pay an administrative monetary penalty to the OEB in the amount of \$3,000. Payment will be made by cheque or electronically, together with notice sent to the Board Secretary, within two weeks of WES 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 Wholesale Energy Sys to the terms set out in this Assurance of Voluntary Compliance.

Name: \_\_\_\_\_ Trevor Newell \_\_\_\_\_

Title: \_\_\_\_\_ President \_\_\_\_\_

Company: \_\_\_\_\_ Wholesale Energy System \_\_\_\_\_

Signature: \_\_\_\_\_  \_\_\_\_\_

Dated this 30 day of April, 2020.