

ASSURANCE OF VOLUNTARY COMPLIANCE

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

Newmarket-Tay Power Distribution Ltd.

Licence No. ED-2007-0624

OEB File No. EB-2023-0303

December 11, 2023

I. INTRODUCTION AND SUMMARY

The Ontario Energy Board (OEB) commenced an inspection of Newmarket-Tay Power Distribution Ltd. (NT Power) on February 7, 2023, in relation to NT Power's customer disconnection procedures. Following the inspection, OEB staff identified, and NT Power verified, specific instances of the utility's non-compliance with its customer disconnection-related obligations under the Distribution System Code (DSC).

In response to the inspection, and in resolution of the contravention, NT Power has 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

NT Power is an electricity distributor that operates under OEB licence ED-2007-0640.

On June 28, 2022, the OEB received a complaint from a customer of NT Power in respect of a disconnection notice received from the utility. In the process of reviewing the complaint, OEB staff identified a potential breach of enforceable provisions by NT Power relating to the utility's form of disconnection notice that was used during the period April 13 to August 12, 2022.

On February 7, 2023, the OEB notified NT Power that it was commencing an inspection to assess the utility's compliance with the DSC and its electricity distribution licence in order to determine if enforcement action would be necessary. The OEB's letter advised that the inspection was in relation to non-compliance with section 4.2 of the DSC, and related provisions. The letter also required that NT Power provide further information in relation to the allegations of non-compliance.

NT Power responded to the OEB's letter on February 21, 2023. NT Power advised that it undertook a review of its collection and customer disconnection practices, including the disconnection notices that it had sent during the period May 2021 to February 2023. Based on this review, NT Power advised OEB staff as follows:

- i. Between April 13, 2022 and August 12, 2022 NT Power issued 870 customer disconnection notices each of which failed to provide the minimum 14-day notice of disconnection as prescribed by section 4.2.2 (b) of the DSC. These customers were provided notice periods ranging from 11 days to 13 days.
- ii. Of the 870 customers who received a non-compliant disconnection notice in June 2022, 10 customers ultimately had their electricity service disconnected. 6 of these customers were also charged reconnection fees of \$360 plus HST (these amounts were later fully credited back to the customer by the utility).

With regard to the foregoing customers, NT Power failed to comply with its obligations under section 4.2.2(b) and section 4.2.3 of the DSC. NT Power understands that, taken together, these sections require a utility to provide the prescribed minimum notice period to a customer prior to their possible disconnection.

NT Power emphasized that this error was unintentional and due to a miscalculation of days which has now been rectified. NT Power states that it is aware of its obligations under the DSC related to the customer disconnection process and it takes these obligations seriously.

Section 4.2.2

Section 4.2.2 of the DSC provides, in part, that a distributor that intends to disconnect, pursuant to section 31 of the *Electricity Act, 1998*, the property of a residential customer for non-payment shall send or deliver a disconnection notice to the customer that contains, at a minimum, the following information:

- (b) the earliest and latest dates on which disconnection may occur, in accordance with sections 4.2.3 and 4.2.2.3.

In breach of section 4.2.2 (b), NT Power inadvertently issued disconnection notices to 870 customers that contained an incorrect earliest date on which the disconnection may occur.

Section 4.2.3

Section 4.2.3 of the DSC provides that a distributor shall not disconnect a customer 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 customer, in the case of a residential customer that has provided the distributor with documentation from a physician confirming that disconnection poses a risk of significant adverse effects on the physical health of the customer or on the physical health of the customer's spouse, dependent family member or other person that regularly resides with the customer; or
- (b) 14 days from the date on which the disconnection notice is received, in all other cases.

NT Power did not comply with section 4.2.3 of the DSC, in that the disconnection notice failed to provide the required 14 days' notice prior to the earliest date upon which the customer is advised that disconnection may occur. NT Power breached its obligation under section 4.2.3 (b) by disconnecting 10 customers without providing them the minimum 14-day window within which to make arrangements to settle their outstanding accounts.

NT Power confirms that, immediately following the review of its disconnection and reconnection practices, the above 10 customers were ultimately reconnected, and the 6 customers were refunded their reconnection fees in full.

The foregoing summarizes the second documented instance of NT Power's non-compliance with section 4.2.2 (b) and section 4.2.3 of the DSC. On September 21, 2020, the OEB also accepted an Assurance of Voluntary Compliance from NT Power related to non-compliance with its disconnection notice-related obligations (EB-2020-0216).

III. ASSURANCE

NT Power acknowledges that it has, for the second time in 3 years, failed to comply with its customer disconnection-related obligations under the DSC. NT Power understands that the OEB

is concerned that the utility has done so in spite of the clear commitments made by the utility to the OEB in EB-2020-0216.

NT Power hereby assures the OEB that

- it is aware of its obligations under section 4.2 of the DSC related to the customer disconnection process;
- it takes these obligations under section 4.2 of the DSC very seriously; and
- reasonable steps have been taken and compliance checks have been appropriately implemented by NT Power to ensure staff involved in the disconnection process properly implement the regulatory requirements under section 4.2 of the DSC through on-going training and management oversight to support compliance

NT Power shall voluntarily make a payment of \$25,000 to its local Low-income Energy Assistance Program (LEAP) agency, to assist the most vulnerable customers in its service territory.

NT Power will promptly deliver a letter to each customer who had their electricity service disconnected following receipt of a non-compliant disconnection notice. The letter will be in a form and manner approved by OEB staff. The letter will advise these customers of (a) the nature of NT Power's non-compliance with its regulatory obligations, (b) NT Power having provided the OEB with this Assurance of Voluntary Compliance, and (c) NT Power's obligation to make an additional payment of \$25,000 to the LEAP Program agency serving its customers in the NT Power service territory. The letter will also advise each of these customers that they will receive a credit of \$100 on the next bill following their receipt of the letter.

NT Power understands that when the customer disconnection process is initiated, it must ensure it complies with all of the requirements set out in section 4.2 of the DSC. In particular, one of the most important requirements of the DSC is that the notice of disconnection include, at a minimum, all of the elements listed in section 4.2.2 so that customers are provided the necessary information to address any potential disconnection. These changes will ensure NT Power's customers receive an electricity disconnection notice that is compliant with all regulatory requirements.

NT Power assures that it will not apply to recover the costs related to this Assurance of Voluntary Compliance in any current or future rate application.

IV. ADMINISTRATIVE MONETARY PENALTY

NT Power agrees to pay an administrative monetary penalty to the OEB in the amount of \$75,000. Payment will be made, together with notice sent to the OEB's Registrar, within two weeks of NT Power being given notice of the acceptance of the Assurance 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 Newmarket-Tay Power Distribution Ltd. to the terms set out in this Assurance of Voluntary Compliance.

Name: Ysni Semsedini
Title: Chief Executive Officer
Company: Newmarket-Tay Power Distribution Ltd.
Signature: *Ysni Semsedini*

Dated this 11th day of December, 2023