

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

**ONIT Energy Ltd.**

**Licences No. ER-2020-0083 and GM-2020-0084**

**OEB File No. EB-2021-0116**

**April 9, 2021**

## I. INTRODUCTION AND SUMMARY

Ontario Energy Board (OEB) staff commenced an inspection of ONIT Energy Ltd. under the authority of Part VII of the *Ontario Energy Board Act, 1998* (the Act). The inspection focused on ONIT Energy Ltd.'s compliance with its legal and regulatory obligations under its electricity retailer and gas marketer licences, the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers (the Codes), the Act, and the *Energy Consumer Protection Act, 2010* (ECPA). The inspection determined that ten (10) customer complaints received by the OEB during the 2018-2019 period indicated instances of non-compliance with all of its legal and regulatory obligations.

In response to the inspection, ONIT Energy Ltd. undertook a comprehensive review of its business practices. As a result, ONIT Energy Ltd. has made improvements to its internal controls including with regard to the manner in which it trains and supervises its salespersons, and the manner in which it contracts, and offers to contract, with consumers. ONIT Energy Ltd. has provided this Assurance of Voluntary Compliance to the OEB, under section 112.7 the Act, in order to confirm ONIT Energy Ltd.'s understanding of, and commitment to comply with, its legal and regulatory obligations.

## II. STATEMENT OF FACTS

ONIT Energy Ltd. is a licensed electricity retailer under OEB licence ER-2020-0083 and provides electricity retailer services for low volume consumers and large volume consumers. ONIT Energy Ltd. is also a licensed gas marketer under OEB licence GM-2020-0084, for low volume consumers.

The purpose of the inspection was to assess ONIT Energy Ltd.'s compliance with its legal and regulatory obligations, as set out in its electricity retailer and gas marketer licences. The inspection was initiated based on the results of a review by OEB staff of a number of specific consumer complaints, directed at ONIT Energy Ltd., that the OEB had received during the period 2018 - 2019. OEB staff reviewed the complaints received by the OEB, as well as a random sample

of ONIT Energy Ltd.'s customer enrolments during the inspection period. OEB staff reviewed contracts and associated documentation (e.g., disclosure statements, price comparisons, verification call recordings, salesperson compensation model and structure, training and certification, complaint handling procedures, etc.), and conducted interviews of several of the complainants. The complaints involved both low volume and large volume consumers.

Through the inspection, OEB staff identified, and ONIT Energy Ltd. acknowledged, that the complainants commonly alleged that they were enrolled into energy contracts by salespersons acting on behalf of ONIT Energy Ltd. based on misrepresentations relating to prices, costs savings, and cancellation rights. ONIT Energy Ltd. also acknowledges evidence that indicates the occurrence of such misrepresentations by ONIT Energy Ltd. sales representatives.

Having reviewed the evidence gathered by OEB staff, ONIT Energy Ltd. acknowledged and accepted that there were instances in which its salespersons misrepresented the purpose of their visits with consumers, including making false statements to consumers, in contravention of its electricity retailer licence.

ONIT Energy Ltd. advised OEB staff that it has resolved all of the identified consumer complaints and that it has made a number of changes to its business practices which are intended to address the issues identified through the OEB's inspection.

### **III. ASSURANCE OF VOLUNTARY COMPLIANCE**

ONIT Energy Ltd. hereby assures the OEB that it is aware of its legal and regulatory obligations, in particular those relating to fair marketing practices, and that it takes these obligations seriously. ONIT Energy Ltd. understands that in retailing electricity to a consumer who is a low volume consumer:

- It is a breach of section 10 of the ECPA, section 5(1)(viii), 5(9), 5(14) of Ontario Regulation 389/10 made under the ECPA, and section 1.1(h) (Part B) of the Electricity Retailer Code of Conduct to provide false or misleading statements about energy prices and cost savings;

- It is a breach of section 1.1(h) (Part B) of the Electricity Retailer Code of Conduct to obtain a consumer's signature and enrol a consumer into a contract based on representations that are false or misleading;
- It is a breach of section 1.1(h) (Part B) of the Electricity Retailer Code of Conduct to obtain the email and/or billing information of a consumer based on representations that are false and that mislead a consumer;
- It is a breach of section 1.1(h) (Part B) of the Electricity Retailer Code of Conduct to mislead a consumer about their cancellation rights; and,
- Failure to comply with the Electricity Retailer Code of Conduct is considered an unfair practice under section 10 of the ECPA and section 5 of Ontario Regulation 389/10.

ONIT Energy Ltd. understands that in retailing electricity to a consumer who is not a low volume consumer (i.e., a large volume consumer), ONIT Energy Ltd. is obligated to comply with the Electricity Retailer Code of Conduct and the Retail Settlement Code.

In response to the inspection, ONIT Energy Ltd. has made improvements to its internal controls, including with regard to the manner in which it trains, certifies and supervises its salespersons, and the manner in which it contracts, and offers to contract, with consumers.

With respect to the manner in which it trains and certifies its salespersons, ONIT Energy Ltd. has, among other things, created a "compliance matrix" document which codifies salesperson conduct violations. With respect to the manner in which it supervises its salespersons, ONIT Energy Ltd.'s "compliance matrix" codifies sanctions imposed by ONIT Energy Ltd. for conduct violations, and ONIT Energy Ltd. has hired a full-time "compliance field officer" who conducts daily field audits of salesperson performance. With respect to the contracting process, ONIT Energy Ltd. has already, and will further, modify its customer facing and salesperson training materials to make it more clear to consumers that there is no guarantee of cost savings and that the Global Adjustment is not included in the contract price. ONIT Energy Ltd. will ensure that its large volume contracts do not contain any references to a "Cancel Anytime" or analogous offers. ONIT Energy Ltd.'s low

volume natural gas and electricity contracts are, and have for some time been, “Cancel Anytime” without any fees or penalties.

ONIT Energy Ltd. understands that the alleged contraventions are deviations from the requirements of the enforceable provisions, with potential adverse effect on consumers. ONIT Energy Ltd. understands that it has ultimate responsibility for the actions of its sales representatives. ONIT Energy Ltd. assures the OEB that it has taken all appropriate measures to ensure that its processes for enrolling customers, and in remedying unauthorized enrollments, are in compliance with all of its legal and regulatory obligations. OEB staff has acknowledged that the steps reported by ONIT Energy Ltd. address the concerns raised by the inspection.

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

ONIT Energy Ltd. agrees to pay an administrative monetary penalty to the OEB in the amount of \$25,000. Payment will be made, together with notice sent to the OEB’s Registrar, within two weeks of ONIT Energy Ltd. 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 ONIT Energy Ltd. to the terms and conditions set out in this Assurance of Voluntary Compliance.

Name: David Balaban  
Title: President & COO  
Company: ONIT Energy Ltd.

Signature: 

Dated this 9th day of April, 2021