

ASSURANCE OF VOLUNTARY COMPLIANCE

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

Kingston Hydro Corporation
Licence No. ED-2003-0057

OEB File No. EB-2024-0110

May 8, 2024

I. INTRODUCTION AND SUMMARY

The Ontario Energy Board (OEB) commenced an inspection of Kingston Hydro Corporation (Kingston Hydro) on April 21, 2022, in relation to Kingston Hydro's customer disconnection procedures. Following the inspection, OEB staff identified, and Kingston Hydro verified, specific instances of the utility's non-compliance with its customer disconnection-related obligations under the OEB's Distribution System Code (DSC).

In response to the inspection, and in resolution of the contravention, Kingston Hydro 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

Kingston Hydro is an electricity distributor that operates under OEB licence ED-2003-0057.

On July 16, 2021, the OEB received a complaint from a customer of Kingston Hydro in respect of a disconnection for non-payment performed by the utility. In the process of reviewing the complaint, OEB staff identified potential breaches of enforceable provisions by Kingston Hydro relating to the utility's form of disconnection notice that was used during the period June 24 to July 29, 2021.

On April 21, 2022, the OEB notified Kingston Hydro 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 Kingston Hydro provide further information in relation to the allegations of non-compliance.

Kingston Hydro responded to the OEB's letter on June 10 and 13, 2022. Kingston Hydro 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 November 2021. Based on this review, Kingston Hydro advised OEB staff as follows:

- i. Between June 24, 2021 and July 29, 2021 Kingston Hydro issued 362 customer disconnection notices each of which did not provide the minimum 14-day notice of disconnection as prescribed by section 4.2.2 (b) of the DSC. These customers were provided only 8 days' notice.
- ii. Of the 362 customers who received a non-compliant disconnection notice, as identified above, 64 customers ultimately had their electricity service disconnected. 48 of these customers were also charged reconnection fees, totalling \$3,525.
- iii. The non-compliant disconnection notices also did not include a reference to an OEB-prescribed arrears management program, and other expanded customer service provisions, specifically for eligible low-income customers, as required by section 4.2.2.(k1)(i) of the DSC.

With regard to the foregoing customers, Kingston Hydro failed to comply with its obligations under section 4.2.2(b), 4.2.2(k1)(i), and section 4.2.3 of the DSC. Kingston Hydro understands that, taken together, these sections require a utility to provide their customers with at least the prescribed minimum notice period prior to their possible disconnection, and that the disconnection notice must contain the information required by the DSC.

Kingston Hydro emphasizes that this error was unintentional and due to a misinterpretation of the computation of time under the DSC, which has now been rectified. Kingston Hydro states that it is aware of its obligations under the DSC related to the customer disconnection process and it takes these obligations seriously, which is why Kingston Hydro immediately rectified these issues upon discovery in July 2021.

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;

...and...

(k1) that the following additional assistance may be available to an eligible low-income customer, along with contact information for the distributor where the customer can obtain further information about the additional assistance:

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

In breach of section 4.2.2 (b), Kingston Hydro issued disconnection notices to 362 customers that contained an incorrect earliest date on which the disconnection may occur as per section 4.2.3 as discussed below.

Also, the disconnection notices did not comply with section 4.2.2.(k1)(i) of the DSC, which requires that a disconnection notice contain a reference to an OEB-prescribed arrears management program, and other expanded customer service provisions, specifically for eligible low-income customers. Although the disconnection notices did contain information that an OEB-prescribed standard arrears management program and equal monthly payment plan may be available, the disconnection notices did not reference that low-income customers may be eligible for expanded customer service provisions specifically for eligible low-income customers, as required by section 4.2.2.(k1)(i), which would typically include a statement that the low-income provisions for arrears management program and other expanded provisions for eligible low-income customers differ than the standard arrears management program.

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.

Kingston Hydro did not comply with section 4.2.3 (b) of the DSC, in that the disconnection notice failed to provide a minimum of 14 days' notice prior to the earliest date upon which the customer is advised that disconnection may occur. Kingston Hydro ultimately disconnected 64 customers without providing them a minimum 14-day window within which to make arrangements to settle their outstanding accounts.

Kingston Hydro confirms that, immediately following the review of its disconnection and reconnection practices, the above 64 customers were ultimately reconnected, and the 48 customers of this group who paid a reconnection fee will be refunded their reconnection fee in full.

III. ASSURANCE

Kingston Hydro acknowledges that it has failed to comply with its customer disconnection-related obligations under the DSC. Kingston Hydro hereby assures the OEB that it is aware of its obligations under section 4.2 of the DSC related to the customer disconnection process and that it takes these obligations under section 4.2 of the DSC very seriously. Appropriate steps have been taken by Kingston Hydro 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.

Kingston Hydro 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 acceptable to OEB staff. The letter will advise these customers of (a) the nature of Kingston Hydro's non-compliance with its regulatory obligations, and (b) Kingston Hydro having provided the OEB with this Assurance of Voluntary Compliance. 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.

Kingston Hydro 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. Kingston Hydro will ensure its customers receive an electricity disconnection notice that is compliant with all regulatory requirements.

Kingston Hydro 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

Kingston Hydro will pay an administrative monetary penalty to the OEB in the amount of \$15,000. Payment will be made, together with notice sent to the OEB's Registrar, within two weeks of Kingston Hydro 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 Kingston Hydro Corporation to the terms set out in this Assurance of Voluntary Compliance.

Name: David Fell

Title: President and Chief Executive Officer

Signature: David Fell

Dated this 8th day of May, 2024