

ASSURANCE OF VOLUNTARY COMPLIANCE

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

**Essex Powerlines Corporation
Licence No. ED-2002-0499**

**OEB File No. EB-2020-0304
March 5th, 2021**

I. INTRODUCTION AND SUMMARY

In September 2020, Essex Powerlines Corporation (Essex Powerlines) voluntarily reported a compliance issue (the Self-Report) to the Ontario Energy Board (OEB). The Self-Report was filed in relation to the distributor's discovery that it had inadvertently failed to comply with its obligations under the Distribution System Code (DSC) in regards to the customer disconnection notices that it issued, and the disconnections that it initiated, during the period from August 1 to September 17, 2020. Essex Powerlines subsequently met with OEB staff to explain the details of the non-compliance and to discuss the steps that the distributor would be taking in order to address OEB staff's compliance-related concerns.

In resolution of the contravention, Essex Powerlines 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

Essex Powerlines is an electricity distributor that operates under OEB licence ED-2002-0304, serving the municipalities of Amherstburg, LaSalle, Leamington, and Tecumseh.

The OEB received a complaint on September 4, 2020, from an Essex Powerlines' customer. While it was unrelated to the distributor's customer disconnection obligations under the DSC, in the process of addressing the complaint, Essex Powerlines identified material deficiencies with the disconnection notice and disconnection process relating to the customer's electricity service disconnection. Essex Powerlines promptly undertook a full review of the content and form of its disconnection notice, and of all its prior electricity service disconnections in 2020.

On September 30, 2020, Essex Powerlines reported that the disconnection notices it issued during the period August 1 to September 17, 2020 contravened the DSC, as follows:

- i. Essex Powerlines issued 2,349 disconnection notices during the period August 1 to September 17, 2020, each of which failed to provide the minimum 14-day notice period

as prescribed by sections 4.2.2 (b) and 4.2.3 of the DSC. Essex Powerlines failed to factor in the required 5-day mailing period when mailing the 2,349 disconnection notices, as prescribed by section 4.2.3.1(a).

- ii. Of the 2349 disconnection notices identified in (i) above 1364 contained a total amount due that included both water and sewer arrears. Accordingly, the affected customers were not provided with an accurate dollar figure representing the minimum amount payable in order to avoid electricity disconnection, as required by section 4.2.2 (c) of the DSC.
- iii. Of the customers identified in (i) above, 95 ultimately had their electricity service disconnected, with 69 customers reconnected after paying a \$73.45 reconnection fee.

Essex Powerlines admits that it failed to comply with its obligations under sections 4.2.2 (b) and (c), 4.2.3, and 4.2.3.1 (a) of the DSC. Essex Powerlines understands that, taken together, these sections require a utility to provide the prescribed minimum notice period to a customer prior to their possible disconnection, and to clearly indicate the amount to be paid for electricity arrears in order to avoid electricity disconnection.

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

(c) the amount that is then overdue for payment, including all applicable late payment and other charges associated with non-payment to that date.



In breach of sections 4.2.2 (b) and (c), Essex Powerlines issued 2,349 disconnection notices that contained inaccurate dates of possible disconnection of which 1,364 contained false and misleading amounts overdue for payment to avoid electricity disconnection. The notices did not specify the amount of arrears required to be paid for electricity in order to avoid electricity disconnection. Rather, the notices provided one total amount due, which Essex Powerlines confirmed included water and sewer arrears with electricity arrears. As such, Essex Powerlines failed to ensure that its customers who were at risk of being disconnected understood the amount due to avoid electricity disconnection for non-payment.

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.

Essex Powerlines did not comply with section 4.2.3 (b) of the DSC, in that its disconnection notices failed to provide its customers with the required 14 days' notice. Notice provisions under Section 4.2.3 (b) must be read in conjunction with deemed customer receipt provisions under Section 4.2.3.1(a). Essex Powerlines disconnected 95 customers without providing them the minimum 14-day window within which to make arrangements to settle their outstanding accounts.

Immediately following the review of its disconnection and reconnection practices, Essex Powerlines fully refunded the 69 customers that had paid a reconnection fee.



Section 4.2.3.1 (a)

Section 4.2.3.1 of the DSC provides that a distributor shall deem a disconnection notice to be received 5 days after the Disconnection notice is printed:

- (a) where a disconnection notice is sent by mail, the disconnection notice shall be deemed to have been received by the customer on the fifth calendar day after the date on which the notice was printed by the distributor.

Essex Powerlines advised that it had failed to account for section 4.2.3.1 (a) of the DSC when issuing its disconnection notices by mail. As a result, Essex Powerlines' customers who received a disconnection notice by mail were incorrectly advised that the earliest date that a disconnection may occur was 14 days from the print date of the disconnection notice, rather than 14 days from the deemed date of receipt.

III. ASSURANCE

Essex Powerlines hereby assures the OEB that it is aware of its obligations under section 4.2 of the DSC related to disconnections and reconnections, and that it takes these obligations seriously. Essex Powerlines understands that one of the most important requirements of the DSC is to ensure that a 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.

Essex Powerlines proactively filed a Self-Report with the OEB on September 30, 2020 and has, since then: completed an internal review and taken corrective measures to address the root cause of the non-compliance; reconnected the disconnected customers that sought reconnection; and, suspended all further disconnections pending the resolution of the non-compliance.

Essex Powerlines assures the OEB that it has taken all reasonable steps to ensure that all new and existing Essex Powerlines' staff involved in the collection and disconnection process have been properly informed of the distributors obligations under the DSC. Essex Powerlines will cease including water and sewer arrears in the disconnection notices that it issues to its customers.



Essex Powerlines will deliver a letter to each customer who received a non-compliant disconnection notice between August 1 and September 17, 2020. The letter will be in a form and manner approved by OEB staff. The letter will advise these customers of (a) the nature of Essex Powerlines' non-compliance with its regulatory obligations, (b) Essex Powerlines having provided the OEB with this Assurance of Voluntary Compliance, and (c) Essex Powerlines' obligation thereunder to make an additional payment of \$4,750 to the LEAP Program agency serving its customers in the Essex Powerlines service territory. With respect to the ninety-five (95) customers who had their electricity service disconnected upon receiving a non-compliant disconnection notice, 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.

Essex Powerlines will implement internal system improvements to prevent reoccurrence of the non-compliance and mitigate against human error. These changes will ensure that Essex Powerlines' customers receive an electricity disconnection notice that is compliant with all regulatory requirements.

Essex Powerlines 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

Essex Powerlines agrees to pay an administrative monetary penalty to the OEB in the amount of \$18,000. Payment will be made by cheque or electronically, together with notice sent to the OEB Registrar, within two weeks of Essex Powerlines being given notice of the acceptance of the 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.



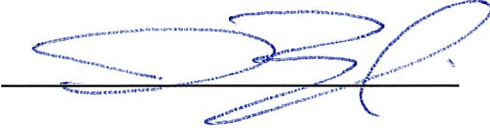
VI. FAILURE TO COMPLY

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 Essex Powerlines Corporation to the terms set out in this Assurance of Voluntary Compliance.

Name: Joe Barile
Title: General Manager
Company: Essex Powerlines Corporation

Signature: 

Dated this 5th day of March 2021