

# **ASSURANCE OF VOLUNTARY COMPLIANCE**

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

## **INNPOWER CORPORATION**

Licence No. ED-2002-0520

OEB File No. EB-2020-0282

December 30, 2020

## I. INTRODUCTION AND SUMMARY

Ontario Energy Board (OEB) staff conducted an inspection of InnPower Corporation (InnPower), a licensed electricity distributor, under the authority of Part VII of *Ontario Energy Board Act, 1998* (OEB Act). The inspection related to InnPower's failure to comply with a provision of the December 10, 2015 Decision and Rate Order issued by the OEB in InnPower's 2016 rates proceeding.<sup>1</sup> A failure to comply with a provision of an OEB order is a contravention of an enforceable provision, as that term is defined under Section 3 of the OEB Act. The contravention resulted in InnPower's customers being overcharged \$405,769 in 2017. In resolution of the contravention, InnPower has committed to requesting to refund the overcollected amounts to customers as part of its 2021 rate proceeding, and has provided this Assurance of Voluntary Compliance to the OEB, under section 112.7 of the OEB Act.

## II. STATEMENT OF FACTS

InnPower is an electricity distributor that operates in the Towns of Innisfil and South Barrie, under OEB licence ED-2002-0520.

On December 10, 2015, the OEB issued its Decision and Rate Order for InnPower's rates to be effective January 1, 2016<sup>2</sup> (the 2016 Rate Order). The 2016 Rate Order included five rate riders, two of which were for amounts related to the disposition of deferral and variance accounts and the global adjustment account and were the subject of OEB staff's inspection explained below (the 2016 Rate Riders):

- a. Rate Rider for Disposition of Deferral/Variance Accounts (2016) to recover \$157,287 from customers

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<sup>1</sup> EB-2015-0081.

<sup>2</sup> Ibid.

- b. Rate Rider for Disposition of Global Adjustment Account (2016) to recover \$445,782 from customers

The 2016 Rate Order established a sunset date of December 31, 2016 for both the 2016 Rate Riders.

InnPower filed a cost of service application for new rates, with a requested coming into force date of January 1, 2017, on November 28, 2016. The filing did not leave sufficient time for the process necessary for the OEB to render a final decision on the application in time to permit InnPower to implement new rates on January 1, 2017. The OEB therefore issued an Interim Rate Order on December 21, 2016, ordering that InnPower's current rates and charges be "made interim as of January 1, 2017 and until such time as a final rate order is issued by the OEB."<sup>3</sup>

During the course of its cost of service application for 2017 rates, the OEB discovered that InnPower had continued to charge the 2016 Rate Riders into 2017.<sup>4</sup>

On January 9, 2018, the OEB issued a letter to all parties in InnPower's cost of service application for 2017 rates identifying the 2016 Rate Riders that should have expired December 31, 2016 but that InnPower had continued to charge into 2017.<sup>5</sup> The OEB noted that the start and end dates for the Rate Riders were established to dispose of specific approved account balances. The OEB stated that it expected InnPower to end the 2016 Rate Riders effective end of December 31, 2017, in order to avoid further collections and refunds in excess of the approved account balances.

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<sup>3</sup> EB-2016-0085, Interim Rate Order, December 21, 2016.

<sup>4</sup> EB-2016-0085, OEB Staff Submission, October 26, 2017.

<sup>5</sup> EB-2016-0085, OEB letter to all parties, January 9, 2018.

In February 2020, OEB staff commenced an inspection of InnPower, which among other things looked at the overcollection by InnPower due to the continued charging of the 2016 Rate Riders. OEB staff determined through the inspection that, as a result of continuing to charge the 2016 Rate Riders until December 31, 2017, InnPower had overcharged its customers by \$405,769 in 2017.

Following the completion of the inspection, InnPower advised OEB staff that, at the time of the issuance of the Interim Rate Order, InnPower mistakenly believed that the 2016 Rate Riders should continue to be collected into the interim rate period.

InnPower acknowledges that, ultimately, consumers were negatively impacted by InnPower's non-compliance, and the severity of the breach merits OEB enforcement action.

InnPower addressed the issue of the overcollection of the 2016 Rate Riders in its IRM proceeding for 2021 rates.<sup>6</sup> In its application in that proceeding, InnPower included a request to dispose a credit balance of \$451,290 in Account 1595 (2016). On December 10, 2020 the OEB issued its Decision and Rate order in respect of the 2021 IRM proceeding, approving the requested refund to InnPower's customers of the overcharged amount including associated carrying charges.

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<sup>6</sup> EB-2020-0033.

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

InnPower understands that it has ultimate responsibility to ensure that it charges rates in accordance with OEB rate orders. InnPower further understands that rate riders are designed to recover or refund specific OEB-approved amounts, that they are identified and listed separately on a distributor's tariff of rates and charges with an explicit sunset or termination date.

InnPower accepts that, in continuing to charge rate riders beyond their approved expiry date, contrary to the 2016 Rate Order, InnPower contravened an enforceable provision of the OEB, as that term is defined under the OEB Act.

InnPower assures the OEB that it has taken all appropriate measures to ensure that all rates, including rate riders, charged to its customers are in accordance with OEB rate orders.

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

InnPower agrees to pay an administrative monetary penalty to the OEB in the amount of \$5,000.00. Payment will be made by cheque or electronically with notice sent to the Registrar, within two weeks of InnPower 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.

### **VI. EXECUTION OF ASSURANCE**

I have the authority to bind InnPower to the terms set out in this Assurance of Voluntary Compliance.

Name: Glen McAllister

Title: Chief Financial Officer/Treasurer

Company: InnPower Corporation

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

Dated this 30th day of December 2020.